307.

SUPREME COURT OF THE UNITED STATES.

No. 198.

THE UNITED STATES, APPELLANTS,

vs.

CHARLES WALTERS.

APPEAL FROM THE DISTRICT COURT U. S. FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

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GIBSON, Printer.

Transcript of the proceedings in case No. 191, "*El Toro*," *Charles Walters, claimant*, vs. *The United States, defendant*.

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the private land claims in the State of Cal'a.

Be it remembered, that on this 30th day of April, anno Domini one thousand eight hundred and fifty-two, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of Charles Walters, docketed No. 191, and is as follows, to wit:

CHARLES WALTERS, claimant,
vs.
THE UNITED STATES, defendant.

To the honorable Commissioners to settle private land claims in California.

The petitioner, Charles Walters, respectfully shows: That, on the 17th day of April, A. D. 1835, José Castro, governor ad interim of California, by virtue of authority in him vested, granted to José Ramon Estrada the tract of land called "El Toro," situate in the present county of Monterey, including one and a half square leagues, with the boundaries described in the grant and accompanying map.

That said grant was approved by the territorial deputation of California, on the 3d day of December, A. D. 1835.

That *on* the said tract of land was duly surveyed, on the 7th day of December, A. D. 1835, aad the judicial possession of it given to the said Estrada; all of which is shown in the original papers, copies of which are submitted herewith, marked "A," with translations marked "B."

That on the 24th day of March, A. D. 1844, the said José Ramon Estrada died, devising by his last will and testament, dated the 21st day of March, A. D. 1844, the said tract of land to José A. Montez; all of which is shown by the original will, an extract of which is submitted herewith, with a translation marked "C."

That on the 4th day of June, A. D. 1847, the said José A. Montez sold and conveyed the said tract of land to the petitioner, a copy of which conveyance is submitted herewith, marked "D."

And the petitioner further shows, that the said land has not been surveyed by the Surveyor General of the United States, but that its boundaries were duly marked out at the time of giving the judicial possession of it, and are well known.

That the petitioner, and those under whom he holds, have been for

about 20 years, and the petitioner now is, in the quiet, peaceful, and undisputed possession and occupation of the said tract of land.

That he knows of no conflicting claim; that he relies for confirmation of title upon the original papers, copies of which are submitted herewith, upon the minutes and records in the archives, now under the charge of the surveyor general, and upon such other and further proofs as he may be advised are necessary.

Wherefore, he prays the commissioners to confirm to him the aforesaid tract of land.

By his attorneys:

HALLECK, PEACHY & BILLINGS.

Filed in office, April 20th, 1852.

GEO. FISHER, *Sec'y.*

Upon which petition the following subsequent proceedings were had, in their chronological order, to wit:

FRIDAY, *April* 23*d*, 1852.

In case No. 191, Charles Walters—the deposition of David Spence, a witness on behalf of the claimant, taken before Commissioner Harry J. Thornton, was filed and is in the words and figures as follows, to wit: (Vide pages of this Transcript, 15, 16, 17, 18.)

TUESDAY, *May* 18*th*, 1852.

The following cases were set for hearing and transferred to the trial docket, viz:

No. 138—J. B. R. Cooper.
" 191—Charles Walters.

TUESDAY, *June* 1*st*, 1852.

The following cases were set in their order for hearing, to wit:

No. 138—J. B. R. Cooper.
" 191—Charles Walters.
" 195—Heirs of Rafael Gomez.

MONDAY, *Sept.* 6*th*, 1852.

Case No. 191, Charles Walters, for the place called "El Toro," called. The counsel for the claimant, H. W. Halleck, opened the argument, and closed. Answered by the U. S. Law agent. Case submitted to the board and taken under advisement.

MONDAY, *Sept.* 13*th*, 1852.

In case No. 191, Charles Walters, for the place called "El Toro," Commissioner Hiland Hall delivered the opinion of the board, declaring the claim valid; the decree of final confirmation being reserved for a future day.

WEDNESDAY, *Dec.* 22*d*, 1852.

In case No. 191, Charles Walters, for the place named "El Toro," Commissioner Hiland Hall delivered the decree of final confirmation of this board.

Ordered, that the opinion of this board, delivered on the 13th September, 1852, by Commissioner Hiland Hall, and the decree of final confirmation, delivered this day in this case, be recorded on the journal.

Which opinion and decree are in the words and figures as follows, to wit:

No. 191.—*Claim of Charles Walters.*

September 13th, 1852.

Charles Walters, by petition to this board of commissioners, filed April 20th, 1852, asks for the confirmation to him of a tract of land called "El Toro," situated in the county of Monterey, and stated to contain one and a half square leagues.

In support of the claim the petitioner produces an original grant from José Castro, governor *ad interim* of the Territory of Upper California, dated October 17th, 1835, by which the land claimed is conceded to José Ramon Estrada, in full ownership, subject to the conditions usually inserted in grants of that period.

Connected with this title paper, the claimant also produces an official copy from the archives, certified by Francisco del Castello Negrete, as secretary of the Territory, dated December 4th, 1835, showing that the grant had been approved by the territorial deputation on the day previous.

The official signatures to these documents have been approved before us, by a competent and credible witness familiar with their signatures; and the United States Surveyor General, in an official letter to the board, certifies that such a grant, approved as before stated, is shown by the public archives in his custody to have been made, and that "the papers in the case appear to be fair and genuine."

The petitioner also produces a truly authenticated record of the proceedings of the constitutional alcalde of the district of Monterey, giving judicial possession of the land to the said Estrada, on the 7th of December, 1835.

It is also satisfactorily proved, that José Ramon Estrada died in the month of December, 1844, and that by his last will and testament, properly executed and authenticated, he devised the land to one Antonio Montez; and that Montez, on the 4th of June, 1847, duly conveyed the same to Charles Walters, the present claimant.

There is also satisfactory evidence, that Estrada was in the occupation of the land within a few months after the grant was made, and had a house on it; that he continued in the occupation until the time of his death; that Montez, his devisee, immediately succeeded to the possession and continued in it, until he sold to the present claimant, and that the present claimant has been in the quiet and undisturbed possession ever since.

There is no evidence in the case that the land is within the twenty border, or ten littoral leagues, mentioned in the Mexican colonization law of 1824; and as the provisions of that law, and the regulations of 1828, for carrying it into effect within the territories, seem to have been

strictly complied with in the issuing of the grant, the title of the claimant would seem to be complete, unless there shall be found to have been some violation, by the grantee, of the terms of the grant itself.

It is objected by the law agent, that although Estrada, the original grantee, might have obtained a valid title to the land from the Mexican government, by virtue of the title papers and the possession under them, before mentioned, yet, that the present claimant, being an assignee, is not entitled to a confirmation of the land to him, because the grant contained a clause prohibiting its alienation.

The grant to Estrada, after stating that the ownership of the land had been decreed to him, and was thereby granted him, declares that "the grant is made in entire conformity with the laws, and subject to the approval of the most excellent territorial deputation, and to the following conditions:

"First, that he shall submit to those (conditions) which may be established by the regulations *to be made* respecting the distribution of vacant lands, and that in the mean time neither the grantee or his heirs shall divide or alienate the land adjudicated to them, impose ground-rent, entail reversion, mortgage, or any burden, although it may be for pious purposes, nor transfer it in *mortmain.*"

This condition, substantially in the same language, is found inserted in most, if not all, the grants which were made in California, from 1833 to 1837, and in many of them of a later period. It is therefore important that the construction and effect of it should be well considered.

It is to be observed that this clause in the grant is not absolute, but only a qualified restriction upon the alienation of the land. It appears to have been contemplated by the granting officers, that additional regulations to those which were then in force, for the disposition of the vacant lands, might thereafter be found embracing new restrictions; and in case such regulations should be formed, it was the object of this clause to provide that the land included in the grant should remain subject to them.

In order to insure such subjection this condition was inserted, providing that "in the mean time" that it, while such regulations were forming and were liable to be established, the land should not be divided, or sold, or encumbered, in such a manner as to prevent the full operation upon it of those contemplated regulations.

The clause, by the terms of it, was evidently intended to answer a temporary object only, and was not designed to be a perpetual restriction upon alienation.

No such regulations as were contemplated by the granting officer were ever made by the Mexican government while the territory was under its jurisdiction; and there is no pretence that there is now any authority in the Government of the United States to make any.

It having by the course of events become impossible for the contemplated regulations to be made, this condition, was only intended to secure their proper observance, must cease to operate.

It would be contrary to the manifest intent of the grant to hold that that clause, by the failure of the happening of the event for which it was only designed to provide, should be converted from a temporary charge upon the land, into one which should endure through all time. For this reason, if there were no other, I should not hesitate to declare that the restriction had become inoperative, and formed no valid objection to the confirmation of the claim.

But it is a matter for serious consideration, whether there was any authority in the granting officers to insert a clause in grants restricting the alienation of the land, and whether indeed the condition must not be held to be illegal and void.

No authority is found in the Mexican colonization law of 1824, or in the regulations of 1828, for carrying it into effect for granting lands subject to a restriction against their alienation.

On the contrary, the whole tenor of the law of 1824 favors the idea that the lands to be colonized should be held by the grantees in full property; and the 13th section of the law which declares, "that the new settlers shall not transfer their property in mortmain," strongly implies by its *negative pregnant* that they might otherwise transfer them.

The regulations of 1828 are, perhaps, still more explicit against a restriction upon *alienation*. The 12th article of those regulations is as follows: "Every new colonist, after having cultivated and occupied the land agreeably to his stipulation, will take care to prove the same before the municipal authority, in order that the necessary record being made, he may consolidate and secure his right of ownership, *so that he may dispose freely thereof*."

It certainly could not have been contemplated by the supreme executive, in framing these regulations, that the governors of the territories should impose conditions upon their grants, that should prevent the free disposition of them by the settlers after their title had become complete.

A restriction upon the alienation of land seems, indeed, to have been in contradiction to the whole spirit and policy of the Mexican laws.

The colonization laws of the Emperor Iturbide, of the 4th of January, 1823, though temporary in its operation, contemplated that the grants would be made with full power of alienation, as may be seen by the 19th, 20th, 29th, and other articles of the laws. 1 White's Recopilacion, 588.

The second and eighteenth articles of the decree of the Cortes of Spain, of the 4th of January, 1813, for the reduction of the public lands to individual ownership, published by Galvan in 1829, as in force in Mexico, declare the lands which may be granted to be subject to alienation by the grantees, except in mortmain, and prohibit entailments. Galvan 56 and 59, Mr. Jones's Report, Senate Doc. No. 18, pages 56 and 57.

The 14th article of the decree of the Spanish Cortes, of September 27th, 1820, for the suppression of entailments, also published in Gal-

van, as in force in Mexico, provides that no person shall thereafter have power, under any pretence whatever, to impose any entail upon any kind of property or right, nor, either directly or indirectly, to prevent its alienation. Galvan's Collection, 135; 2 White, 183.

It may, perhaps, be difficult at this time to ascertain, with certainty, what ground Governor Figueroa had for expecting that additional regulations for the granting of lands would thereafter be promulgated, or what new restrictions he anticipated they might impose.

The condition, in the form in which it is inserted in the grant in the present case, is found in the earliest titles issued by him in the spring of 1833, and it appears to have been uniformly inserted during the continuance of his administration, and generally as late as 1838.

In the time of Alvarado, and the succeeding governors, it was often omitted, and, as far as can be discovered, arbitrarily, and without reason and object.

Sometimes, at a later period, the qualifying part of the condition, referring to future regulations, was omitted, leaving the clause an absolute prohibition against alienation.

There was, doubtless, a cause operating on the mind of Figueroa for inserting this clause in his grants when he first began to act under the colonization law of 1824; and while there remained reasonable ground for believing that such further regulations might be formed, there might have been some propriety in continuing its insertion; but when all such expectation ceased, as it must have done in a very short time, there seems little excuse for continuing to insert the condition.

It is, however, well known to the profession, that forms, and especially in conveyances, are not readily departed from, and are, indeed, often followed for long periods after the reasons for adopting them have ceased to operate. This may, perhaps, account for the long continued use of the form thus adopted by Figueroa. This mission, in some instances at a late period of any reference to future regulations, may have been made in consequence of the increasing absurdity of such a reference, and for the sake of brevity.

But, whatever may have been the cause of inserting such a condition by Figueroa, or the reasons for its continuance and modification, we are all agreed that it is wholly inoperative in the present case, and it furnishes no obstacle in the way of the confirmation of the claim.

No further objections are taken, or found, to the validity of the claimant's title.

We have not considered what questions, in regard to the extent or boundaries of the land claimed, might arise in this case. Such questions, if any, are reserved for a final decree, being suspended until a future day.

And now, on the 22d day of December, 1852, a final decree of confirmation is made, Commissioner Thornton concurring in the result.

(Signed) HILAND HALL.

No. 191.—Decree of Final Confirmation.

No. 191.—*Charles Walters, Claimant.*

This board, on full consideration, having come to the conclusion that the claim is valid, now proceed to make, and does hereby make, the following decree of final confirmation, viz.: It is decreed that the said claim be confirmed to the extent and quantity of one square league and a half, being the same land described in the grant, and of which the possession was proved to have been long enjoyed, provided that the said quantity of land granted, and now here confirmed to the claimant, be contained within the boundaries called for in the said grant, and if there be less than the said quantity of one square league and a half, within said boundaries, we then confirm to the claimant that less quantity; it being apparent that the quantity exceeds the minimun of two hundred varas, prescribed by the ordinance of the 21st November, 1828.

(Signed) HILAND HALL,
(Signed) HARRY J. THORNTON.
Commissioners.

Depositions of David Spence.

SAN FRANCISCO, *April* 23, 1852.

Office of the Board of Commissioners of California Land Claims.

On this day before me, Harry J. Thornton, one of the commissioners for ascertaining and settling private land claims in California, came David Spence, a witness produced in behalf of the claimant, Charles Walters, and docketed No. 191. The witness, being duly sworn, testifies as follows. The United States law agent was notified, and attended by Mr. Greenhow.

Witness examined by the Claimant.

Question 1st. State your name, age, and residence, what offices you have held in California, what you know of the papers before you, what you know about the rancho of El Toro, and what you know about the governor's authority to make such grants.

My name is David Spence; my age is fifty-three years. I have resided in California twenty-eight years. In the year 1835 I was alcalde of Monterey. I have examined the documents before me, and know them to be genuine and originals. I am acquainted with the signatures of José Castro, F. del C. Negrete, José R. Estrada, José Maria Maldonado, J. Ma. Cassed, Esteban Muños, and I know their signatures on these documents to be genuine. The signature of David Spence is my own signature. As alcalde of Monterey, I caused the land to be measured, and the judicial possession to be given, as therein set forth. I have compared these documents with those marked exhibit "A" in claim No. 191, filed in the office of the secretary of the board of land commissioners, and find the latter to be a true and correct copy of the originals now before me. The map is also a perfect copy of the original used by me in the survey and judicial possession;

the red lines show the boundaries as measured and established by me in December, 1835, in my official capacity. I have lived twenty-eight years in the neighborhood of the rancho called "El Toro," and know that José Ramon Estrada was in the possession and occupation of the land from some time in the year 1834 to the time of his death, which took place about the 24th day of December, 1844. By his last will and testament, a true extract from which is filed as exhibit "C" in claim No. 191, aforesaid, the said land was demised to one José A. Montez, who continued in the possession of the said land until June, 1847, when he conveyed it to the petitioner, Charles Walters, who ever since has been, and now is, in the quiet, peaceable, and undisputed possession and occupation of the said tract of land.

I have never heard the title disputed, and there is no conflicting claim.

I have lived in California twenty-eight years, and have been well acquainted with all the governors during that time. I have held the office of alcalde and judge of first instance on several occasions; have been prefect, and twice a member of the legislative body of California—once under Gov. Chico, and once under Gov. Micheltorena.

I know that the governors of California made grants of land within ten leagues of the coast to native and naturalized citizens of Mexico, the same as in any other part of California; in fact, until within a few years nearly all the grants were made within ten leagues of the coast, and I have never heard any of the governors, or of the legislative body, or of the other official authorities in California, under the Mexican Government, express any doubt of the right and power of the governors to make grants of land within ten leagues of the coast.

I know the signatures of Walter Colton, Juan Malarin, and G. R. Garner; their signatures on the Spanish and English documents before me are genuine, and the documents are genuine and originals, and I have compared them with exhibit "D" in claim No. 191, filed as aforesaid, and find the latter to be perfect copies.

At the time I gave judicial possession of the said rancho of "El Toro" in 1835, José Ramon Estrada had a house on the land, and occupied the land with horses and cattle.

Cross-intgs. by the United States Law Agent.

Cross-intg. 1st. Did you ever hear from any of the political chiefs or governors of California themselves any statement that they had been authorized by the general government of Mexico to dispose of *with* the prohibition to colonize, or grant land within the ten littoral leagues of the sea shore?

Answer. I never did.

D. SPENCE.

Sworn to and subscribed before me, this 23d of April, 1852.

HARRY J. THORNTON, *Comm'r.*

Filed in office April 23d, 1852.

GEO. FISHER, *Sec'y.*

Espediente.

Jurisdiccion de Monterey—Año de 1834.

Sobre el parage nombrado "El Toro," solicitado pa. su occupacion cultivo por D. José Ramon Estrada.

Habilitado provisionalmente por la administracion de la Aduana Maritima de Monterey, para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco. RAFAEL GONZALEZ.

FIGUEROA.

Sor. Gefe Sup'or Politico:

El ciudadano José Ramon Estrada en la mejor forma y con el devido respeto ante V. S. hayo presente que deceoyo de adelantar y fomentar las bienes de campo de mi propiedad como asi mismo dedicarme al cultivo de un paraje, que reuna las circustancias de las leyes de colonizacion; acompano devidamente á este el diceño correspondiente pidiendo la propriedad del sitio nombrado "El Toro," para cuyo fin suplico a V. S. se sirva dará este elgiro que tenza á bien.

Al mismo tiempo como creo que pudiera ofrecerse para la concecion el inconveniente de llamarse el espresado sitio de la pertenencia de la comp'a parmanente de Monterey, pa. el mantenimiento de sus caballarias un obligo si se llegase este á no estorvar de ninguna manera que se haja de el el uso correspondiente para la mantencion de dicha caballada cosa en mi concepto pueda asegurar mejor estas propriedades. P. J.

A V. S. suplico se sirva resolber sobre el particular lo que encontrare de justicia jurando lo necessario, &c.

JOSE RAMON ESTRADA.

MONTEREY, 27 *de Abril, de* 1834.

En sesion de haya acordió pase este espediente á la comision de colonizacion. JOSE MARIA MALDONADO, *Sec'o.*

MONTEREY, *Mayo* 3, *de* 1834.

3 S. D. K.

MONTEREY, *Abril* 30, *de* 1834.

De conformedad con las leyes de la materia informe el ylustre Ayuntamiento de esta capital si el interesado, en esta instancias obtiene los requicitos prevenidos pa. ser atendido en su solicitud, si el terreno que pretende esta comprendido en las 20 leguas limitropes ó diez littorales que espresa la ley de 18 de Agosto, de 1824, si es de regadio, temporal ó abrevidero, y si pertenecer á propriedad de algun particular corporacion, ó pueblo con todo lo demas que crea conducente ái lustrar la materiar y despues pasará este espediente al capitan de la compa de cabelleria de este puerto, para que informelo que le secura sobre el particular. El S'or D. José Figueroa, Comt. General Ynspector y Gefe Superior Politico de la Alta California, asi lo mando decreto y firmó, de que doy fé. JOSE FIGUEROA,

AGUSTIN N. ZAMORANO, *Sec'y.*

Señor Gefe Superior Politico:

El Y. Ayuntamiento constitucional de este puerto en sesion ordenaria de la del presente.

4 S. D. K.—Sello Tercero, Dos Reales.

Habilitado provisionalmente por la administracion de la Aduana Maritima de Monterey, para los años de mil ochocientos treinta y tres, y mil ochocientos treinta y cuatro.

FIGUEROA. JOSE RAFAEL GONZALEZ.

Acordio se informares á V. S. q. ecsaminado por todos sus tramitos este espediente, aprobo el dictamen de la comision de colonizacion y terrenos valdios q. se mando agregar, y en el q. esta de manifiesto q. el unico inconveniente q. habria para concederse el terreno nombrado "El Toro," seria haberse ocupado, y poder serlo en lo subsenbo pr. la compañia de caballeria de este lugar; pero q. deja de serlo por el ofrecimiento q. hace el interesado en su instancia, pr. lo q. opina en favor de la pretencion. Y en cumplimiento de la acordado, tenyo el honor de verificarlo en el precente.

JOSE MARIA MALDONADO, *S'rio.*

MANUEL JIMENO.
CASARIO.

MONTEREY, *Mayo* 15, 1834.

5 S. D. K.

Con esta fha, para este espediente al Sor. Capitan de Caballeria D. Augustin N. Zamorano para las fines q. indica el superior decreto de 30 del pp'do.

JOSE MARIA MALDONADO, *Secre'to.*

MONTEREY, *Mayo* 15, *de* 1834.

Señor Gefe Superior Politico:

El torreno que pretende la parte de D. José Ramon Estrada es el mejor de las conocidas pr. el situado de caballada de la compañia de mi mando, y esta no debe perjudicarse en manera algana pr. resulta contra el mejor servicio nacional. La propuesta q. hace el postulante no ofrece ventagas algunas antes pr. el contrario inconvenientes pa. el y pa. los intereses de mi compania, q. no produceran otra cosa q. reclamaciones continuas entre ambas partes por la espuesto creo q. nols conveniente acceder á la solicitud del interesado, pero no obstante V. S. se dignara resolver lo q. hallase en justicia.

AGUSTIN N. ZAMORANO.

MONTEREY, *Mayo* 16, *de* 1834.

6 S. D. K.—Sello Tercero, Dos Reales.

Habilitado provisionalmente por la Administracion de la Aduana Maritima de Monterey, para los años de mil ochocientos treinta y tres, y mil ochocientos treinta y cuatro.

JOSE RAFAEL GONZALEZ.

FIGUEROA.

Yl'tre Ayuntamiento:

La comision encargada de colonizacion y terrenos valdios al dictaminar sobre el espediente presentado por el C. José Ramon Estrada, con objeto de q. se le conceda el paraje nombrado, El Toro, y pa. dar lleno ql. superior decreto q. le acompaña apino q. el interesado es ciudadano Mejicano por nacimiento, en el exerciso de sus derechos, lo q. le da todos los requisitos q. exige la ley; el terreno pretendido no se halla comprehendido en las vente leguas limitrofes pero si en los diez littorales, de q. habla lo ley de 18 de Agoste, de 1824. Este sitio es de temporal y abrebadero, y h'ta lo fha no ha pertenicido a pueblo corporacion ni particular q. acredite possession de el, aunque los situados de esta compania han ocupado oho, terreno pr. desde el año 29 hta. esta fha se halla valdio vajo este concepto lo comision ofrece a la deliberacion de este yltre. cuerpo los proposiciones siguientes:

1a. Puede adjudicarse el terreno pretendido, al C. José Ramon Estrada, sugetandore á hayar los derechos q. se le impongan si resultare ejidos diesta poblacion.

2a. Que pare este expediente al capitan de la compañia de caballeria de este puerta pa. dar cumplimiento al supr. decreto q. acompaña.

3d. Que el interesado no se apondra à q. patun los situados de esta compañia segun espresa en su instancia.

JOSE ANTONIO ROMERO,
JOSE AGUILA.

Monterey, 10 de Mayo, de 1834.

7 S. D. K.

MONTEREY, *Mayo* 26, *de* 1834.

Siendo el parage del Toro destrada para agostaderos de la caballeria de las tropas y estando mandado, que se conservan estos terrenos para los usos que tenga a bien empleados la nation no esta en mis facultades disponer de ellos.

Por lo mismo no ha lugar a la solicitud de D. José Ramon Estrada, a quien se le hara saber esta resolucion notificandole que eligir otro parage que este valdio, o espere la secularizacion de los Missiones. El Sor. D. José Figueroa, General de Brigada, Comandante Gen'l, Inspector y Gefe Superior Politico de la Alta California, asi lo mando, decreto y firmo, de que doy fé.

JOSE FIGUEROA,
AGUSTIN V. ZAMORANO,
S'rio.

En—

[8 S. D. K.—Sello Tercero, Dos Reales.

Habilitado provisionalmente por la Administracion de la Aduana Maritima de Monterey, para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

RAFAEL GONZALEZ.

FIGUEROA.]

—Monterey, a vente y ocho de Junio de mil ochocientos treinta y cuatro presente la parte de Don José Ramon Estrada, se le hize saver el decreto q. antecede del Sr. Gefe Superior Politico, y exterado de el dijo q. lo oye y q. solicitara otro paraje; esto respondio y pa. conste pr. diligencia lo firmo con migo el secretario.

AGUSTIN V. ZAMORANO,
JOSE R. ESTRADA.

[*For map see original, page* 20.]

10 S. D. K.—Sello Tercero, Dos Reales.

Habilitado provicionalmente por la administracion de la Aduana Maritima de Monterey, de la Alta California, para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

ANGEL RAMEREZ.

CASTRO.

S'or Gefe Superior Politico:

El cuidadano José Ramon Estrada vecino de este pueblo ante V. S. con el devido, respeto hayo presente que habiendo vido en sesion publica del dia de ayer de la Ex'ma Deputacion, que el terreno nombrado El Toro, fué concedido para propios ó elejidos de este poblacion por solicitud que hizo el y ayuntamiento de esta capital, ocurro á V. S. promoviendo la ultima solicitud que tenzo, hecha pretendiendo la propriedad de el, á la que seme neyo porque se crein pertenece á la compañia de caballeria de este puerto, mas habiendo declarado la Ex'ma Deputacion como he dicho que ese terreno pertenece al fundo de Monterey, suplico á V. S. se sirva dar tramito al espediente de mi solicitud con el objeto de que seme conceda dicho terreno si es de los propios del pueblo quedando obligado pr. esto mismo á dar el senso ó contribucion que sé me imponga por tanto. A V. S suplico se servá acceder comopide en que reciveré gracia furando lo necesario.

JOSE RAMON ESTRADA.

Monterey, 16 de Octobre, de 1835.

11 S. D. K.

MONTEREY, *O'bre* 16, *de* 1835.

En sesion de ayer la E. Deputacion declaro pertenecer á los esidos de este pueblo el paraje que solicita el interesado respetando este acuerdo pase el espediente al alcalde de esta capital, ante quien la parte del C'no Ramon Estrada producira una informacion de tres testigos idoneos que seran interrogados sobre los puetos seguientes:

1o. Si el solicitante es Mejicano pr. nacemiento, si es casado ó tiene hejos: ó si es de buena conducta.

2o. Si el terreno que pretende pertenece á la propriedad de algun particular mision, corporacion ó pueblo; si es de regadio temporal ó abrevedero y q. estencion tendra.

3o. Si tiene trenes de campo con q. poblado ó posibilidad de adquirirlos, Ebacuados estas diligencias buelta el espediente pa. su resolucion.

El S'or D. José Castro, primer vocal de la E. Deputacion Territorial y Gefe Politico Interino de la Alta California, asi lo mundo decreto y firmó de q. doy feé.

JOSE CASTRO.

Por ausencia del secre.,

J. M'A COSICO.

MONTEREY, *Oct'bre* 16, *de* 1835.

Notifiquese al interesado presente los testigos q. se han de ecsaminar, recivase la informacion q. sepide y hecho devuelvase al S'or Gefe Superior Politico en cumplimiento del superior decreto q. antecede. Asi yo el alcalde constitutional de 1o. nominacion lo decreté, mandé, y firmé con los de ast'a.

DAVID SPENCE.

De ast'a:

JOSE MARIA MALDONADO,
JUAN MALARIN.

[12 S. D. K.—Sello Tercero, Dos Reales.

Habilitado provisionalmente por la administracion de la Aduana Maritima de Monterey, de la Alta California, para los años de mil ochocientos treinta y cuatro, y mil ochocientos treinta y cinco.

ANGEL RAMEREZ.

CASTRO.]

En la f ha presente el C. José Ramon Estrada, se le notifico el auto, q. anteced y de el intendido digo; lo oye y presenta por testigos a los cuidadano Juan B. Alvarado, José Fernandes y Joaquim Gomez, y lo firmo con migo y las de asta.

JOSE R. ESTRADA.

At.: SPENCE.

De asta.: JOSÉ MARIA MALDONADO,
" JUAN MALARIN.

13 S. D. K.

En el mismo dia, mes, y año, presente el ciudo. Juan B. Alvarado, le recivió juram'to q. higo en forma de d'ro bajo el cual afrecio decir verdad, en lo q. supiere y fuese preguntado y siendolo por su nombre, estado, edad, patria y religion digo; llamarse como queda dicho, q. es soltero de veinte y cinco años, su pais este capital y C. A. R. preguntado, por el tenor del interrogatorio del S'or Gefe Superior Politico digo.

A lo 1o. Que el solicitante erudo. Mejicano pr. nacimiento q. no es casado, ni tiene hijos, y es de buena conducta y responde.

A lo 2o. Qu el terreno que pretende pertenece á los egidos del ayuntamiento de esta capital; q. es de temporal y abrevadero, y q. su estencion sera de das leguas poco mas ó menos delargo y tres cuartos de ancho y contesta.

A lo 3o. Que ambos dos cosas de los q. contiene la pregunta tiene; que lo dicho es la verdad á cargo del juramento q. tenia hecho en el q. se afirmo y ratifico leida q. le fue su declaracion y la firmá con migo y los de asta.

DAVID SPENCE,
JUAN B. ALVARADO.

De asta: JOSÉ MARIA MALDONADO,
" JUAN MALARIN.

En la misma f ha presente ell Joaquin Gomez se le recivió juramento en forma de dio, por el cual afrecio decir verdad en lo q. supiere y fuese preguntado y siendolo por su nombre, estado, edad, patria y religion digo: llamarse como dicho que es casado, de cuarento y siete años, natural de Guadalapara y C. A. R.

[14 S. D. K.—Sello Tercero, Dos Reales.

Habilitado provisionalmente por la Administracion de la Aduana Maritima de Monterey de la Alta California, para los años de mil ochocientos treinto y cuatro y mil ochocientos treinta y cinco.

ANGEL RAMEREZ.

CASTRO.]

Preguntado por los mismos terminos q. lo fue el primero testigo digo.

A lo 1o. Qu es Ciudo. Mejicano por nacimiento, que no es casado ni tiene hijos, y es de buena conducta, y resp'de.

A lo 2o. Que el terrene que pretende save q. pertenece á los ejidos de Monterey, segun la declatoria de lo Ex'ma Diputacion; que es de temporal y abrevadero y su estencion la de dos leguas poco mas ó menos y contesta.

A lo 3o. Que tiene una y otra cosa del contenido de la pregunta;

que lo dicho es la verdad á cargo del juramento q. tiene hecho en el q. se afirmó y ratificó leida, q. le fue su declaracion y la firmo con migo y los de asta.

DAVID SPENCE,
JOSE JOAQUIN GOMEZ.

De asta: JOSÉ MARIA MALDONADO,
" JUAN MALARIN.

En el misma dia presente D. José Fernandez, le recivió juramto. en forma por el cual afreció decir, verdad en lo q. supiere y fuere preguntado, y siendolo por su nombre, estado, edad, patria y religion digo; llamarse como queda referido; q. es casado, natural de Cadiz y C. A. R.

15 S. D. K.

Preguntado por el tenor q. lo fueron los anteriores testigos digo.

A lo 1o. Que el interesado es Mejicana por nacimiento; q. no es casado ni tiene hijos, y es de bueno conducta y respondes.

A lo 2o. Que el terreno q. pretende segun save, la E. Diputación lo ha declarado de los egidos de este pueblo; q. es de temporal y abrevadero, y q. tendrá poco mas dendos leguas y contesta.

A lo 3o. Que tiéne las dos cosas contenidas en la pregunta q. sela hace; q. lo dicho es la verdad á cargo del juramento q. tiene hecho, en el q. se afirmó y ratificó leida q. le fué su declaracion y firmó con migo y los . . . . de ast'a.

DAVID SPENCE,
JOSE FERNANDEZ.

De ast'a: JOSE MARIA MALDONADO,
JUAN MALARIN.

En la misma fha concluida la informacion q. se pidio en el sup'or decreto de este dia se devuelve al S. Gefe Superior Politico y para constancia la puse por nota y rubrique.

(A scroll.)

MONTEREY,

[16 S. D. K.—Sella Tercero, Dos Reales.

Habilatado provisionalmente por la administracion de la Aduana Maritima de Monterey de la Alta California, para los año de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

ANGEL RAMEREZ.

CASTRO.]

OCTOBRE 17, *de* 1835.

Vista la peticion con que da principio este espediente y respetando el acuerdo de la E. Diputacion de quince del corriente en el q. declaró pertenecer, el sitio solicitado al termino de esta capital, la exposicion de testigos con todo lo demas q. setuvo presente y ver convino, de conformi-

dad con lo despuesto por las leyes reglamentos de la materiá se declara á D. Jose Ramon Estrada, dueño en propiedad del terreno conocidos con el nombre de *Toro*, con la precisa circumstanciá q. se sugetara á payar lo q. se le señale por el Y. Ayuntamiento de esta capital por estar comprendido y declarado dentro de su termino. Libreserle el despacho correspondiente, tomese razon de en el libro respetivo y reservese el espediente para dar cuenta á la E. Diputacion en cuyo caso el interesado presentara nuevamente su titulo pa su rebalidacion el S. D. José Castro, primer vocal du la E. Diputacion y Gefe Politico interino del Territorio de la Alta California, asi lo mando, decretó y firmó de lo q. doy féee.

JOSE CASTRO.

S'rio.

FCO. DEL CASTILLO NEGRETE.

17 S. D. K.—Se tomo razon de el libro a fo'fo. 79 del tito.

MONTEREY, 1*o de Dec're, de* 1835.

En sesion de este dia se mando pasar este espediente á la comision de terrenos baldias.

CASTRO, *Presid'te.*

Ex'mo Sr.:

La comision de terrenos baldios impuesto del espediente q. se mando practicar pr. solicitud que hace el ciudadano José Ramon Estrada, del terreno nombrado El Toro, no en contrando en el objeccion alguna que que hacer siendo en todo conforme a la ley de 18 de Agt., de 1824, y al art. 5o. del Reglam'te de Colonizacion, operir la comision pr. los informes que anteceden poner a la deliberacion de V. E. la seguiente proposicion.

Se a prueba la concesion hecha al C'o José Ramon Estrada, del terreno nombrado El Toro, concedido en 17 de O'bre de 1835, sugetandose a las condiciones q. se estipularen pr. considerarse en los egidos de esta poblacion.

SALVIO PACHECO.

Monterey, 3 D'bre, de 1835.

MONTEREY, *Dec're, de* 1835.

En sesion de hay aprovió la Ex'ma Diputacion, la proposicion del dictamen antecedente disponiendo se devuelva el espediente al Sr. Gefe Polit'o para los finés consiguientes.

JUAN B. ALVARADO,
Deput'o S'rio.

CASTRO, *Presid'te.*

Espediente.

Sobre el parage nombrada Toro, solicitado por Doñ José Ramon Estrada.

19 S. D. K.—Sello Tercero, Dos Reales.

Habilitado provisionalmente por la administracion de la Aduana Maratima de Monterey, de la Alta California, para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

A. RAMEREZ.

FIGUEROA.

S'or Gefe Superior Politico:

El Cno. José Ramon Estrada, vecino de este puerto, ante V. S. como mas haya lugar en derecho, y con el devido respeto dijo; que siendome casi imposible emprendeo el cultivo y fomento del parage de S. Luis Ganzaga, que se me concedió en 6 de Agto. del año, pp'do, tanto pr. hallarse casi entre la gentilidad como pr. no encontrar en lo absoluto gente que sin el temor de los habitantes de los rancherias inmediatas se presentan por ningunas ventajas a vivir alli á esta grave circumstancia se egrega la esterilidad, y lo pantonoso de aquel sitio que reconosi escrapulosamente en ectacion mas favorable por lo que me veo obligado á renunciar el derecho, que adquiri por el titulo que se me expedió en fha, citada ql. devidamente acompaño á esta.

20 S. D. K.

Por todas estas razones y deseando asegurar considerable cantidad de bienes con que me hayo con el objeto de adelantar progresos, y para poder dedicarme al cultivo sin temor de absenturar mis intereses á la rapiña de los indigenas gentiles como mi seguridad personal suplico a V. S., se sirva concederme el parage llamado El Toro de cuyo sitio acompaño el diseño correspondiente bajo el concepto de que es un terreno baldio ql. no reconose propiedad de ningun individuo corporacion ni pueblo, por tanto. A V. S., suplico se sirva dar á esta mi instancia el quo correspondiente en que recibiré gracia jurando lo necesario. JOSE RAMON ESTRADA.

Monterey, 4 de Sepbre., de 1835.

21 S. D. K.—Sello Primero, Seis Pesos.

Habilitado provisionalmente por la administracion de la Aduana Maritima de Monterey, para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco. RAFAEL GONZALEZ.

Figueroa.

[Gobierno politico de la Alta California.]

José Figueroa, General de Brigada del Ejercito de la Republica Mejicana, Comandante General, Ynspector y Gefe Superior Politico del Territorio de la Alta California.

Por cuanto el ciudadano José Ramon Estrado, Mejicana por nacamiento, ha pretendido para su beneficio personal y el de su familia el terreno conocido con el nombre de San Luis Gonzaga; colindante con el rancho de San Agustin de las Allesaymas y la gentilidad; practicadas previamente las diligencias y averiguaciones concernientes segun lo dispuesto por leyes y reglamentos usando de las facultades, que me son conferidas y de conformidad con el acuerdo de la Escelentisima Diputacion, del dia primera del presente en confirmacion de la consecion del espresado terreno de San Luis Gonzaga, hecha por decreto de treinta y uno de Julio ultimo al referido ciudadano José Ramon Estrada; a nombre de la nacion Mejicana he venido en conferirle el mencionato terreno declarandole la propiedad de el por las presentes letras y sugeto á las condiciones seguientes:

22 S. D. [illegible]

1o. Que se someteria a las que estableciere el reglamiento q. se ha de formar para la distribucion de terrenos valdios, y que entretante ni el agraciado ni sus herederos, podran dividir, ni enaginar el que se la adjudica; imponerlo senso, vinculo, fienza, hipoteca, ni otro gravamen aunque sea por causa peodosa, ni pasarlo á manos muertas.

2o. Podra sercarlo sin perjudicar las travesias, caminos y servidumbres lo desputara libre y esclusivamente destenandolo al uso ó cultivo que mas le acomode, pero dentro de un año fabricará casa y estará habitada.

3o. Solicitará del Suez respectivo q. le dé posecion juridica in virtud de este, dispacho, por el cual se demarcaran los linderos en cuyos limites pondrá á mas de las majoniras algunos, arboles, frutales ó silvestres de alguna utilidad.

4o. El terreno de que se hace mencion es de seis sitiós de ganado mayor que se le señalan y esplica el diseño que corre en el espediente. El Juez que diere la posecion lo hará medir, conforme á ordenanza que dando el sobrante que resulte á la nacion para los usos combementes.

5o. Si contra veniere á estas condiciones perderá su derecho al terreño y será denunciable por otro.

En consecuencia mando que teniendose por firmi y valedero este titulo, se tome razon de el en el libro á que corresponde y se entregue al interesado para su resguardo y demas fines. Dado en Monterey de la Alta California, á seis de Agosto, de mil ochocientos treinta y cuatro.

JOSE FIGUEROA.
AUGUSTIN V. ZAMORANO,
S'crio.

23 S. D. K.

Queda tomada razon de este titulo en el libre de asientes sobre adjudicacion de terrenos valdios, á foxas cincuenta y una numero cuarento, y nueve que obra en la secretaria de mi cargo.

Monterey, Agosto seis, de mil ochocientos treinta y cuatro.

ZAMORANO.

[*For map see original, page* 30.]

25 S. D. K.—Sello Tercero, Dos Reales.

Habilitade provisionalmente por las administracion de la Aduana Maratima de Monterey, de la Alta California, para los años de mil ochociéntos trienta y quatro y mil ochociéntos trienta y cinco.

FIGUEROA. A. RAMIREZ.

MONTEREY, *Septiembre 5, de* 1835.

Siendo el parage del Toro destrado para agostaderos de la cavallada de las tropas y estando mandado que se conserven estos terrenos, para las usas q. tengo á bién empleados la nacion, no esta en mis facultades

disponer de ellos. Por la misma no ha lugar á la solicitud de D. Jose Ramon Estrada á quien se le hará saber esta resolucion notificandole q. eliga otro paraje q. esta valdio. El Sr. D. José Castro, primer vocal de Ex'ma Deputacion Territorial y Gefe Politico interino del Territorio de la Alta California, asi lo mandó, decreto y firmo, de la q. doy fée.

JOSE CASTRO.

En la misma f'ha se le hizo saber al interesante y dijo quedara interada, y lo firmo con migo el secretario. Habiendosele hecho saber esta diligencia se nego á la firma doy fée. CASTILLO.

OFFICE OF THE SURVEYOR GENERAL
OF THE UNITED STATES FOR CALIFORNIA.

I, Samuel D. King, surveyor general of the United States for the State of California, and as such now having in my office, and under my charge and control, a portion of the archives of the former Spanish and Mexican territory, a department of Upper California, do hereby certify, that the twenty-five preceding and hereunto annexed pages of tracing-paper, numbered from one to twenty-five inclusive, and each of which is verified by my initials, (S. D. K.,) exhibit true and accurate copies of certain documents on file, and forming part of the said archives in this office.

In testimony whereof, I have hereunto signed my name officially, and affixed my private seal, (not having a seal of office,) at the city of San Francisco, this tenth day of April, 1852.

SAML. D. KING, *Surv. Gen'l Cal.*

Filed in office Sept. 6th, 1852.

GEO. FISHER, *Secy.*

Translation of Expediente.

Stamp third—Two reales.

Provisionally authorized by the administration of the maratime custom-house of Monterey for the years 1834 and 1835.

FIGUEROA. RAFAEL GONZALEZ.

To the Señor Political Chief:

Citizen José Ramon Estrada, in the most proper form and with due respect, appears and says:

That being desirous to improve and increase the stock which he owns, and also being desirous of devoting himself to cultivating a place which unites the circumstances of the laws of colonization, offers herewith the corresponding map, asking the ownership of the place called El Toro, for which purpose he begs your excellency to give this the direction deemed proper.

At the same time, as I think, an inconvenience might be offered against the concession of this said place, as pertaining to the permanent company of Monterey, for the support of its horses, I bind myself, if such should be the case, to not impede in any manner the corresponding use for keeping said horses, which, in my opinion, might secure the better these properties.

Wherefore, I beg of your excellency to determine on the particular, what may be most just, making the necessary oath, &c.

Monterey, April 27th, 1834. JOSE RAMON ESTRADA.

MONTEREY, *April 30th*, 1834.

In conformity with the laws of the matter, the illustrious ayuntamiento of this capital will report, if the petitioner has the requisites to entitle him to be attended to in his petition; if the land asked for is included in the 20 boundary leagues, or the 10 littoral leagues mentioned in the law of August 18th, 1824; if it is irrigable, dependant on the seasons, or pasture lands; and if it belongs to the property of any private person, corporation or pueblo, with whatever else may tend to illustrate the matter, and afterwards will pass this expediente to the captain of the company of cavalry of this port, to report on what respects him in the matter. Señor Don José Figueroa, commandant general, inspector and superior political chief of Upper California, thus ordered, decreed and signed, of which I certify.

JOSE FIGUEROA.
AGUSTIN V. ZAMORANO, *Secretary*.

In session of this day this expediente was passed to the committee of colonization. JOSE MARIA MALDONADO,

Monterey, May 3d, 1834. *Secretary*.

Señor Superior Political Chief:

The illustrious constitutional ayuntamiento of this port, in regular session of this date, directed your excellency to be informed that, examining through all its forms this expediente, it approves the *dictamen* of the committee on colonization and vacant lands, (which is ordered to be annexed,) in which it is shown that the only inconvenience in granting him the land called El Toro is, its being occupied by the company of cavalry of this place, but that it ceases to be so by the offer of the petitioner in his petition; wherefore the petition is recommended.

And in compliance with the directions, I have the honor to verify it in the present. MANUEL JIMENO CASARIN.
JOSE MARIA MALDONADO,

Monterey, May 15th, 1834. *Secretary*.

On this day this expediente is passed to señor captain of cavalry, Don Agustin V. Zamorano, for the purposes indicated in the superior decree of the 30th ultimo.

JOSE MARIA MALDONADO.

Monterey, May 15th, 1834.

Señr. Superior Political Chief:

The lands asked for by José Ramon Estrada is the best of those known for the horses of the company under my command, and this should not be prejudicial in any way to injure the good of the national service.

The offer in the last clause offers no advantages, but, on the contrary,

inconveniences for him and for the interest of my company, as it will only cause continued disputes between both parties. Wherefore, I think it is not convenient to grant the petition of the party interested; but, nevertheless, your excellency will determine what is just.

AGUSTIN V. ZAMORANO.

Monterey, May 16th, 1834.

Illustrious Ayuntamiento:

The committee on colonization and vacant lands report on the expediente of citizen José Ramon Estrada, for the concession of the place called El Toro, and in fulfilment of the superior decree which accompanies it, gives its opinion that the petitioner is a Mexican citizen by birth, in the exercise of his right, which gives him all the qualifications required by law.

The land asked for is not included in the 20 border leagues, but is in the 10 littoral mentioned in the law of August 18th, 1824. The place is dependant on the seasons and pasture land, and has never belonged to any puebla, corporation, or private person, who have claimed possession of it, although the soldiers of this company have occupied said land, but from 1829 to the present time it has been vacant.

Wherefore, the committee offers to the deliberation of this illustrious body the following propositions:

1st. The lands asked for may be adjudicated to citizen José Ramon Estrada, he being subject to pay the taxes which may be imposed, if it should be commons of this town.

2nd. That this expediente be passed to the captain of the company of cavalry of this port, for the fulfilment of the superior decree which accompanies it.

3d. That the petitioner will not oppose the company's pasturing on it, as expressed in his petition.

JOSE ANTONIO ROMERO. JOSE AGUILA.

Monterey, May 10th, 1834.

MONTEREY, *May 26th*, 1834.

The place of the "Toro" being destined for the pasture of the cavalry of the troops, and it being ordered that these lands be kept for the use which the nation sees fit to make of them, I cannot dispose of them.

Wherefore, the petition of Don José Ramon Estrada is not answered; let him be notified of this resolution, and that he ask for another place which is vacant, or await the secularization of the missions.

Señor Don José Figueroa, general of brigade, commandant general, inspector and superior political chief of Upper California, thus ordered, decreed, and signed, of which I certify.

JOSE FIGUEROA,
AGUSTIN V. ZAMORANO, *Secretary*.

IN MONTEREY, *June 28th*, 1834.

Don José Ramon Estrada, present, was notified of the foregoing decree of the superior political chief, and having understood it, he said

he heard it, and would ask for another place; in proof of which he signs with me, the undersigned, the secretary.

JOSE R. ESTRADA,
AGUSTIN V. ZAMORANO.

[*Here follows the map referred to in petition.*]

Stamp third—Two reales.

Provisionally authorized by the administration of the maritime custom-house of Monterey, of Upper California, for the years 1834 and 1835.

CASTRO. ANGEL RAMIREZ.

Señor Superior Political Chief:

Citizen José Ramon Estrada, a resident of this puebla, before your excellency, with due respect, represents:

That having heard in yesterday's public session of the most excellent deputation, that the land called "El Toro" was conceded as municipal and common lands of this town; on the application of the illustrious ayuntamiento of this capitol, I came to your excellency renewing my last petition for the ownership of it, which was refused me, as it was thought to belong to the company of cavalry of this port.

But the most excellent deputation having declared, as I have said, that this land belongs to the "fundo" of Monterey, I pray your excellency to be so good as to pass this expediente of my petition, through the usual forms, for the purpose of said land being granted to me, if it is of the municipal lands of the puebla, I being obliged to pay the tax or contribution which may be imposed on me.

Wherefore, I pray your excellency to be so good as to grant as I request, by which I shall receive favor, swearing what is necessary, &c.

Monterey, October 16th, 1835.

JOSE RAMON ESTRADA.

MONTEREY, *Oct.* 16*th*, 1835.

In said session, the most excellent deputation declared, that the land asked for by the petitioner pertained to the common land of the puebla, in consequence of which, let this expediente pass to the alcalde of this capital, before whom citizen Ramon Estrada will produce any information of three proper witnesses, who will be interrogated on the following points:

1st. If the petitioner is a Mexican by birth, if he is married and has children, and if he is of good conduct.

2d. If the land asked for belongs to the property of any individual, mission, corporation, or pueblo, if the land is irrigable, dependant on the seasons or pasture land, and what extent it has.

5th. If he has any stock to put on the land, or the means of acquiring any.

These things being done, let the expediente be returned for decision.

Señor Don José Castro, first vocal of the most excellent deputation, and political chief, ad interim, thus ordered, decreed, and signed, of which I certify. JOSE CASTRO.

(In the absence of the secretary.)

JOSE MA. OSIO.

MONTEREY, *Oct.* 16*th*, 1835.

Let the party interested be notified to present the witnesses which he has to examine, and let the information be taken which is asked by the superior political chief in compliance with the foregoing superior decree.

Thus I, the alcalde constitutional of 1st nomination decree, order and sign, with the assisting witnesses. DAVID SPENCE.

Ass't witnesses—JOSÉ MARIA MALDONADO,
JUAN MALARIN.

On the same day citizen José Ramon Estrada, present, was notified, and understanding it, said he heard and would present as witnesses citizens Juan B. Alvarado, José Fernandez, and Joaquin Gomez, and signed with me and those of my assistance.

D. SPENCE,
JOSE R. ESTRADA.

Ass't witnesses—JOSE MARIA MALDONADO,
JUAN MALARIN.

On the same day, month and year present, citizen Juan B. Alvarado was sworn according to law, and under the oath promised to tell the truth in what he knew and was asked; and being asked his name, State, age, country and religion, said, his name was as above, that he was single, 25 years of age, a native of this capital, and a Roman apostolic Catholic.

In answer to the interrogatories of the superior political chief, he said:

To the 1st. That the petitioner was a Mexican by birth, was not married, and had no children, and was of good conduct.

To the 2nd. That the land asked for belonged to the commons of the ayuntamiento of this capital; that it was dependant on the seasons and pasture land; and that its extent was two leagues long, a little more or less, and ¾ of a league wide.

To the 3d. That he had both things mentioned in the interrogatory; that what he has said is true under the oath he has taken, which he affirms and ratifies, being read to him, as his declaration, and signs with me and those of my assistance. DAVID SPENCE,
JUAN B. ALVARADO.

JOSÉ MARIA MALDONADO,
JUAN MALARIN, } Of assistance.

On the same day, present citizen Joaquin Gomez, who took the oath according to law, by which he promised to say the truth in what he knew and what was asked of him; and being asked his name, State,

country, age and religion, said, his name was as above, his age 47 years, a native of Guadalapara, and a Roman apostolic Catholic.

Being interrogated the same as the first witness, he said, in answer:

To the 1st. That he was a Mexican citizen by birth; that he was unmarried and had no children, and was of good conduct.

To the 2nd. That he knows the land asked for; it belongs to the commons of Monterey, according to the declaration of the most excellent deputation; that it is dependant on the season and pasture land, and in extent two leagues, a little more or less.

To the 3rd. That he has both things mentioned in the interrogatory; that what he has said is true under the oath he has taken, and it being read, affirms and ratifies this declaration, and signs with me and those of my assistance.

DAVID SPENCE,
JOAQUIN GOMEZ.

JOSÉ MARIA MALDONADO,
JUAN MALARIN, } Of assistance.

On the same day, present Don José Fernandez, and took the oath according to law, under which he promised to tell the truth in what he knew and was asked; and being asked his name, State, age, country, and religion, said, his name was as above; was married; a native of Cadiz, and a Roman apostolic Catholic.

Being interrogated as the former witnesses, he answered:

To the 1st. That the party interested is a Mexican citizen by birth; is not married, and has no children, and is of good conduct.

To the 2d. That the land asked for has been declared by the most excellent deputation as pertaining to the commons of this pueblo; that it is dependent on the seasons and pasture land.

To the 3d. That he possesses the two things mentioned in the interrogatory; that what he has said is true under the oath he has taken, and being read, affirms and ratifies as his declaration, and signed with me and those of my assistance.

DAVID SPENCE,
JOSE FERNANDEZ.

JOSÉ MARIA MALDONADO,
JUAN MALARIN, } Of assistance.

On the same day the information asked for by the superior decree of this date was concluded and returned to the superior political chief, and in proof I sign this note with my rubrique.

(*Rubrique of D. Spence.*)

MONTEREY, *Oct. 17th*, 1835.

Having seen the petition at the beginning of this espediente, and respecting the resolution of the most excellent deputation, declaring that the place asked for pertains to the bounds of this capital, the testimony of the witnesses, and whatever else presented and proper to be seen in conformity with what is directed in the laws and regulations on the matter, Don José Ramon Estrada is declared owner in fee of the land known by the name of "*Toro*," on the precise condition that he is liable to pay what may be assessed by the Yllustrious Ayun-

tamiento of this capital, from being included and declared within its bounds. Let the corresponding despatch issue; take note of it in the respective book, and reserve the espediente, in order to report it to the most excellent deputation; in which case the party interested will present anew his title for its revalidation.

Señor Don José Castro, first vocal of the most excellent deputation, and political chief *ad interim* of the Territory of Upper California, thus ordered, decreed, and signed; of which I certify.

JOSE CASTRO.

FRANCISCO DEL CASTILLO NEGRETE,
Secretary.

(Note taken in the book, p. 79 of titles.)

MONTEREY, *December* 1*st*, 1835.

In session of this day this espediente was ordered to be passed to the committee on vacant lands. CASTRO, *President.*

The committee on vacant lands, charged with the espediente ordered to be formed on the petition of citizen José Ramon Estrada, of the land called "*El Toro*," finding no objection, but in everything in accordance with the law of August 18th, 1824, and art. 5th of the regulations of colonization, conclude from the foregoing report to offer for the deliberation of your excellency the following proposition.

Approved the grant made to citizen José Ramon Estrada of the land called "*El Toro*" on the 17th of October, 1835, subject to the conditions stipulated as being considered in the commons of this town.

SALVADOR PACHECO.

MONTEREY, 3*d of December*, 1835.

MONTEREY, *December* 3*d*, 1835.

In session of this day the most excellent deputation approved the proposition of the preceding report, directing the espediente to be returned to the political chief for the corresponding ends.

CASTRO, *President.*

JUAN B. ALVARADO,
Deputy Secretary.

Filed in office Sept. 6th, 1852.

GEO. FISHER, *Secretary.*

Document A.

Sello Primero—Seis Pesos.

Habilitado provisionalmente por la administracion de la Aduana Maratima de Monterey, de la Alta California, para los años de mil ochocientos treintas y cuatro, y mil ochocientos treinta y cinco.

FIGUEROA.

A. RAMIREZ.

José Castro, primer vocal de la E. diputacion territorial é gefe politico interino del Territorio de la Alta California.

[Gobierno political de la Alta California.]

Por cuanto Dn. José Ramon Estrada, Mejicano pr. nacimto., ha pretendido pa. su benificio personal, y el de su familia el terreno conocido con el nombre del Toro, cuyos linderos son los de los S. S. Monras y Dn. José Estrada, y rio de Monterey, y a la parte del *sur* los de corral de tierra—practicadas previamente las diligencias y avereguaciones concernientes segun lo dispuesto pr. leyes y reglamentos; usando de las facultades ql. me son conferidas á nombre de la nacion Mejicana, pr. decreto de este dia, he venido, en concederle al espresado Dn. José R. Estrada, el terreno mencionado declarandale la propriedad de el pr. las presentes letras; entendiendose d'ha, concesion con entera conformidad á lo dispuesto pr. las leyes, a reserva de la aprobacion de la E. diputacion territorial sugeto á las condiciones siguientes:

1o. Que se sometra á la q. estableciere el reglamento ql., se a de formar pa. la distribucion de terrenos valdios, y q. entre tanto ni el agraciado ni sus herederos podran debidir ni enagenar, el que se le adjudica imponer senso vinculo, fianza, epoteca, ni otro gravamen aunque vea pr. causa piadosa ni psarlo ni manos muertas.

2o. Podra sercarlo sin perjudicar las travesias y caminos y servidumbres, lo disfratarar libre y esclusivamente destinandolo al uso y cultivo q. mas le acomode; p. dentro de un año á lo mas fabrica casa y estara habitada.

3o. Cuando se le confirme la propiedad salicitara del juez respetivo ql. le de posecion juridica, en virtud de este despacho pr. el cual se demarcaram los linderos en cuyos limites podran á mas de las mohoneras algunos arboles, frutales, ó silvestres de alguna utilidad.

4o. El terreno de q. se hace donacion es de sitio y medio de ganado mayor, segun esplica el diseño q. corre en el espediente; el juez q. decre la posecion la hara medio conforme á ordenanza quedando el solvante q. resulte á fabor de la nacion pa. los usos conbementes.

[Dros 20 p's.]

5o. Si contraveniere á estas condiciones perdera sus derechas al terreno y sera denunciable por otro.

En consecuencia mando q. serviendola de titulo el presente, y teniendose pr. firme, y validero se tome razon de el en el libro q. corresponde, y se entregar al interesada pa. su resguardo y demas fines.

Dado en Monterey, á diez y siete de Obre., de mil ochocientos treinta y cinco. JOSE CASTRO.

Franco. del Castillo Negrete, *S'crio.*

[Dros 10 p's.]

Queda tomada razon de esta despacho en el libro de hasientos sabre adjudicacion de terrenos á fojas setenta y nueve señalado con el numero setenta y sieta q'l obra en la secretaria de mi cargo.

Monterey, O'bre 17, de 1835. CASTILLO.

Sello Tercero—Dos Reales.

Habilitado provisionalmente por la administracion de la Aduana Marítima de Monterey de Alta California, para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

ANGEL RAMEREZ.

CASTRO.

Testimonio.

Proposicion de la Comicion.

Se aprueba la consecion echa al ciudadano José Ramon Estrada del terreno nombrado el "Toro," concededo en diez y siete de Octubre, de este año, sujetandose à las condiciones q. se estipularen, p'r considerarse en los terminos de esta pablacion.

SALVIO PACHECO.

Aprovacion de la Ex'ma D'on.

MONTEREY, *Deciembre tres, de mil ochocientos treinta y cinco.*

En sesion de hay aprovo la Ex'ma Deputacion, el dictamen q. antecede, y paso el espediente al Señ'r Gefe Politico p'a su conclusion.

JOSE CASTRO,
Presidente.

JUAN B. ALVARADO,
Diputado Secretario.

Decreto de Confirmacion del S. G. Politico.

MONTEREY, *Deciembre cuatro, de mil ochocientos treinta y cinco.*

En vista de la aprobacion otorgada el dia de ayer p'r la Ex'ma Diputacion territorial, librese testimonio de ella y de este decreto á la parte del ciudadano José Ramon Estrada, en confirmacion a la consecion del terreno conocido con el nombre del Toro, q. obtuvo en dies y siete de O'bre de este año.

[Dros 8 p's.]

El Señor D. José Castro, vocal de la Ex'ma Diputacion territorial, y Gefe Politico interino, de la Alta California, asi lo mando decreto, y firmo, de q. doi fé.

JOSE CASTRO.

FRANCISCO DEL CASTILLO NEGRETE,
Secretario.

[Dros 4 p's.]

Concuerda a la letra con su original, q. queda archevado en esta secretario del Gobierno Politico, de mi cargo, en el legajo de espedientes aprovado p'r la Ex'ma Diputacion.

MONTEREY, *Deciembre cuatro, de mil ochocientos treinta y cinco.*

F'A DEL CASTILLO NEGRETE.

Sello Tercero—Dos Reales.

Habilitado provisionalmente por la administracion de la Aduana Maratima de Monterey, de la Alta California, para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

ANGEL RAMIREZ.

S'or Alcalde Constitucional:

José Ramon Estrada, Ciudo. Mejicana, dice, que habiendo obtenido la concesion propria del terreno conocido con el nombre del Toro, ocurse á V. pr. q. se sirva darle la posecion juridica conforme esta prevenido en el art. 3o. del titulo de d'ho terreno, que se mi espidio con fha 16 de Octobre de 1835, que devidamente acompaño, igualmente la confirmacion respectiba, y la debolacion de estas documentos pa. los usos ql. me convengan.

Por tanto.—A V. suplico se sirva ponerlo en la posecion, ql. solicita de la q. recibera merced y gracia.

JOSE R. ESTRADA.

MONTEREY, *5 de Dec'bre, de* 1835.

MONTEREY, *Deciembre 5, de* 1835.

Por presentado y admitido, libreuse las voletas, de comparendo, a las colindantes, y procedase á dar la posecion, q. se solicita á cuyo efecto se señala el siete del presente mes.

Asi, yo el alcalde 1o. constitucional, lo decreté, mande, y firmé con los de asistencia.

DAVID SPENCE.

De ass't: JOSE MARIA MALDONADO,
" J. M. CORREO.

En la misma fha presente el C. José Ramon Estrada, se le notifico, el auto ql. antecede, y entendedo digo, lo aye y q. se da por citado formando con migo y los de as'a.

SPENCE,
JOSE R. ESTRADA,

De as'a: JOSE MARIA MALDONADO. De as'a.

En—

[Sella Tercero—Dos Reales.

Habilitado provisionalmente por la administracion de la Aduana Maritima de Monterey de la Alta California, para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

CASTRO. ANGEL RAMIREZ.]

—la misma fha, se libraron las voletas q. se mandan en el antecedente auto y pa. constancia lo anoto y rubrico.

(A scroll.)

En el rancho del Toro á los siete dias del mes de Deciembre, del mil ochocientos treinta y cinco, yo el alcalde constitucional primera nomenacion notifique á los colindantes D. Esteban Munras, D. Francisco Mesa, y Don José Estrada, al ante antecedente y de el entendidos digeron lo oyen y firmaron con migo y los de as'a.

ESTEBAN MUNRAS,
SPENCE,
JOSE ESTRADA.

De as'a: JOSE MARIA MALDONADO,
" J. M'A CORREO.

Yncontinente, en el mismo rancho, dia, mes y año, yo el referido alcalde la cump'nto del ante de 5 del actual presentes, los S. S. colindantes, pa. medicion Señalam'te de linderos, y los Ciudo. Luciano Feliz y Julian Guerrero, quienes previa la aceptacion y juramenta procederan al desempeno de su encargo. Asi yo el nominado alcalde lo decrete, mande, y firmé con los de as'a.

DAVID SPENCE.

De as'a: JOSE M'A MALDONADA.
" J. M. CORREO.

En la misma f'ha y en el proprio rancho, les notifico el nombramiento á los C. C. Luciano Feliz y Julian Guerrero, y digeron q. aceptaran y aceptaron d'ho encargo y juraron, pr. Dios y la señal de la Cruz de usarlo fiel, y legalmente a todo suleal saver, y entender su fraude algo., y no firmaron por que dijeron no saber lo hice yr. y los de asistencia.

Q DAVID SPENCE.

De a'sa: JOSE MARIE MALDONADO,
De a'sa: J. MA. CORREO.

Yn— [Sello Tercero—Dos reales.

Habilitado provisionalmente por la administracion de la Aduana Maritima de Monterey, de la Alta California, para los años de mil ochocientos, treinta y cuatro y mil ochocientos treinta y cinco.

CASTRO. ANGEL RAMIREZ.]

—mediatemente yo el referido alcalde mande traher á mi presencia el cordel conquese hande medir las tierras, y que los medidores lo medieron de cincuenta varas, y en presencia de los colindantes, la tomaron d'hos medidores y conuna vara de medir usual Mejicana, tenien dola en la mano medieron las espresados cincuenta varas, para hacer la referida medicion y para constancia la firmé con las de asistencia.

SPENCE.

De a'sa: JOSE MARIA MALDONADO,
De a'sa: J. MA. CORREO.

En el mismo parage, dia, mes y año, siendo las once del dia, yo el presente alcalde mandé á las medidores nombrados se pongan para las

medidas q'l, han de hacer al C. José Ramon Estrada, y comenzando desde el arrayo de mesa lindero de corral de tierra del Sna. N. hasta el rio de Monterey, dos cientos cordelles de a cincuenta varas des de la cuchilla de los Pilarcitos hasta el paso de quinto lindero de Buena Vista, trenta cordeles de las mismas cincuenta vs. y constutoda lo demas de ancho tres mil varas Mejicanas. Para cuya constancia la firmo con los colindantes y de asa.

ESTEBAN MUNRAS,
DAVID SPENCE,
JOSE ESTRADA.

De a'sa: Jose Maria Maldonado,
De a'sa: J. Ma. Correo.

En el rancho del Toro á los siete dias del mes de Deciembre, de mil ochocientos treinta y cinco, yo el alcalde 1o. constitucional de la capital del territorio, despues de practicadas las medidas del rancho nombrado el Toro, conforme se demarca en la antecedente medicion presentes los colindantes, C. C. Franco Mesa, y José Estrada, y D. Esteban Munras, q. fueron conformes, con lo mas que ver combino, mande q. entrase en posecion pacifica del terreno espresado el C. José Ramon Estrada, vago las medidas citados y formalidades acostumbrados en casos semigantes la que verifico arrancando yervas y haciendo demostraciones como dueño del terreno que se le ha concedido por la E. Diputacion, y del que se le ha dado en propiedad y pacificara posesion cuya—

[Sello Tercero—Dos Reales.

Habilitado provisionalmente por la administracion de la Aduana Maratima de Monterey, de la Alta California, para los años de mil ochocientos treinta y cuatro, y mil ochocientos treinta y cinco.
Castro. ANZEL RAMIREZ.]

—valedacion la autorizo, y firmo con los espresados colindantes y testigos de as'a.

ESTEBAN MUNRAS,
DAVID SPENCE,
JOSE ESTRADA.

De as'a: Jose Maria Maldonado,
De as'a: J. M'a Correo.

Monterey, 11 *de Decembre*, *de* 1835.

Tomase razon de este titulo en el libro de posesiones, y devuelvase original, de este expediente al interesado. Asi yo alcalde de primera nominacion lo determiné, mandé, y firmé con los testigos de as'a.

DAVID SPENCE.

De as'a: Jose Maria Maldonado,
De as'a: J. M'a Correo.

En la misma fha setomo razon, en la foja 4 buelta del libro respectivo, y se devolvio el espediente, en seis fojas utiles a mas de dos blancos, y para constancia la firmo con los de as'a.

DAVID SPENCE.

De as'a: JOSE MARIA MALDONADO,
De as'a: J. M'A CORREO.

Florencio Serrano, alcalde segundo constitucional, y encargado del juzgado de 1o. ynst'o en esta demarcacion.

Certifico en toda forma de derecho q. en el art'o 6o. del testam'to otorgado, el dia 21 de Marzo, del presente año p'r el finado José R. Estrada, y autorizado p'r mi, dice á la letra:

Art'o 6o. Declaro igualmente q'l á mi criado Ant'o Montes p'r sus buenas servicios, es mi voluntad dejarle pa si sus herederos y subsesores, el sitio de mi propriedad nombrado el Toro. Con treinta bacas mansas, cincuenta baquillas y las caballas y yeguas q'l existen en el servicio del rancho.

Y á pedimiento verbal del interesado day el presente aunque estendido en papel comun p'r na haber el sellado q'l corresponde pa. q. agregado á los demas documentos correspon'dit le sirva de titulo.

FLORENCIO SERRANO.
DAVID SPENCE, *Alcalde*.

Firmado en Monterey, á 12 de Mayo, de 1844.

Filed in office, Sept. 6th, 1852.

GEO. FISHER.

B.—*Translation of Grant, Approval, Judicial Possession.*

Seal of the first class—six dollars.

Authorized provisionally by the collector of the maritime custom-house of Monterey, Upper California, for the years eighteen hundred and thirty-four and thirty-five.

(Signed) A. RAMIREZ.
(Signed) FIGUEROA.

[Gov'nt Seal.] José Castro, first member of the most excellent Territorial Deputation, and political chief ad interim of the Territory of Upper California:

Whereas, Don José Ramon Estrada, a Mexican by birth, has solicited for his personal benefit and that of his family, the land known by the name of "El Toro," the boundaries of which are those of Señores Munras and José Estrada and the river of Monterey, and towards the south those of the Corral de Tierra; the previous necessary proceedings and investigations having been taken and made in conformity with laws and regulations, I have, by virtue of the powers conferred upon me by a decree of this date, granted to the said Don José Ramon Estrada, in the name of the Mexican nation, the land mentioned, declar-

ing unto him the ownership thereof by these present letters; it being understood that said grant is made in entire conformity with the requirement of the laws, and subject to the approval of the most excellent Territorial Deputation, and the following conditions:

1st. That he shall submit to those which may be established by the regulations to be made respecting the distribution of vacant lands, and that in the mean time neither the grantee nor his heirs shall divide nor donate the land adjudicated to them, impose ground rent, (censo,) entail, (vinculo,) reversion, (fianza,) mortgage or any other burden, although it may be for pious purposes, nor transfer it in mortmain.

2d. He may enclose it without prejudice to the crossings, roads and privileges; he shall enjoy it freely and exclusively, destining it to the use and cultivation which may best suit them; but within one year, at farthest, he shall build a house, and it must be inhabited.

3d. When the ownership is confirmed to him, he shall solicit the respective magistrate to give him juridical possession in virtue of this title, and said magistrate shall designate the boundaries; on the limits whereof, besides placing the land-marks, some fruit trees, or wild ones of some utility, shall be planted.

4th. The land whereof donation is made contains one square league and a half, (sitio y medio de ganado mayor,) as appears by the plat which accompanies the espediente. The magistrate who gives possession shall cause it to be measured according to law, and the surplus which may result shall remain in favor of the nation, for the necessary purposes.

5th. If he transgress these conditions, he shall lose his right to the land, and it may be denounced by another.

Fees $20.

I consequently command, that holding the present as firm and valid, and serving him as a title, a record thereof be made in the corresponding book, and this be delivered to the party interested, for his security and further ends.

Given in Monterey, on the seventeenth of October, eighteen hundred and thirty-five.

(Signed) JOSE CASTRO.

(Signed) FRANCISCO DEL CASTILLO NEGRETE,
Secretary.

Fees $10.

A record of this title has been made in the book of entries respecting the adjudication of lands, at folio seventy-nine, marked with number seventy-seven, kept in the secretary's office, under my charge.

(Signed) CASTILLO.

Monterey, October 17th, 1835.

Seal of the third class—Two reales.

Authorized provisionally by the collector of the maritime custom-house of Monterey, Upper California, for the years eighteen hundred and thirty-four and eighteen hundred and thirty-five.

(Signed) ANGEL RAMIREZ.
(Signed) CASTRO.

Testimony.

Proposal of the Committee.

The grant made to citizen José Ramon Estrada, of the land named *El Toro*, on the seventeenth of October of this year, is approved, subject to the conditions which may be stipulated, it being considered to be within the limits of this town.

SALVIO PACHECO.

Monterey, December third, eighteen hundred and thirty-five.

Approval of the Most Excellent Deputation.

In the session of to-day, the Most Excellent Deputation approved the foregoing opinion, and remitted the proceedings to the political chief, for their conclusion.

JOSE CASTRO,
President.
JUAN B. ALVARADO,
Member of the Deputation, and Secretary.

Monterey, December fourth, eighteen hundred and thirty-five.

Decree of Confirmation by the Political Chief.

In view of the approbation granted yesterday by the Most Excellent Territorial Deputation, let a testimony thereof, and of this decree, be given to citizen José Ramon Estrada, in confirmation of the grant of the land known by the name of *El Toro*, which he obtained on the seventeenth of October of this year.

Fees $8.

Senor Don José Castro, member of the Most Excellent Territorial Deputation, and Political Chief *ad interim* of Upper California, did thus command, decree and sign, whereof I give testimony.

JOSE CASTRO.
FRANCISCO DEL CASTILLO NEGRETE,
Secretary.

Fees $4.

This literally agrees with its original in the archives of the secretary's office of the political government under my charge, in the bundle of *Espedientes*, approved by the Most Excellent Deputation.

Monterey, December fourth, eighteen hundred and thirty-five.

(Signed) FRANCISCO DEL CASTILLO NEGRETE.

Seal of the third class, Two reales.

Authorized provisionally by the collector of the maritime custom-house of Monterey, Upper California, for the years eighteen hundred and thirty-four and eighteen hundred and thirty-five.

(Signed) ANGEL RAMIREZ.
(Signed) CASTRO.

Señor Constitutional Alcalde:

José Ramon Estrada, a Mexican citizen, says, that having obtained the proper grant of the land known by the name of *El Toro*, he applies to your honor in order that you may be pleased to give him juridical possession in conformity with the requirements of the 3d article of the title of said land, which was granted to me under date of the 16th October, 1835, and which duly accompanies, together with the respective confirmation, which documents you will please to return to me for the uses which I may require.

I request you will put me in the possession which I solicit, whereby I shall receive favor.

Monterey, 5th December, 1835.

(Signed) JOSE R. ESTRADA.

MONTEREY, *December 5th*, 1835.

Considered as presented and admitted; let summonses be served upon the owners of the adjoining lands, and proceedings be commenced for giving the possession asked for, to which effect the seventh of the present month is appointed.

Thus I, the first Constitutional Alcalde, did decree, command, and sign, with the assisting witnesses.

(Signed) DAVID E. SPENCE.

Assisting witnesses:

(Signed) JOSE MARIA MALDONADO,
(Signed) J. MARIA CORREO.

On the same day, citizen José Ramon Estrada being present, the foregoing decree was notified unto him, which having understood, he said that he heard it, and considered himself as summoned, signing with me and the assisting witnesses.

(Signed) JOSE R. ESTRADA.
(Signed) SPENCE.

Assisting witness:

(Signed) JOSE MARIA MALDONADO.

On the same date, the summonses ordered in the foregoing decree were served; in testimony whereof, I note this down and sign with my scroll.

(*Signed with the Alcalde's scroll.*)

In the rancho of *El Toro*, on the seventh day of the month of December, eighteen hundred and thirty-five, I, the Constitutional Alcalde of first nomination, notified unto the owners of the adjoining farms the foregoing decree, and Don Estaban Munras, Don Francisco Mesa, and Don José Estrada, on understanding the same, said that they heard it, and signed with me and the assisting witnesses.

(Signed) ESTEBAN MUNRAS,
(Signed) SPENCE,
(Signed) JOSE ESTRADA.

Assisting witnesses:
(Signed) Jose Maria Maldonado, and
J. M'a Correo.

Immediately afterwards, in the same rancho, and on the same day, month, and year, I, the said alcalde, in compliance with the decree of the 5th instant, the owners of the adjoining farms being present for the measurement, designation of boundary, and judicial possession, did appoint as measurers citizens Luciana Felez and Julian Guerrero, who, after accepting and being sworn, will proceed to fulfil their charges.

Thus I, the said Alcalde, did decree, command, and sign, with the assisting witnesses.

(Signed) DAVID SPENCE.

Assisting witnesses:
(Signed) Jose Maria Maldonado,
(Signed) Jose Maria Correo.

On the same date, and in the same rancho, the appointment was notified to citizens Luciano Felix and Julian Guerrero, who said that they accepted it, and swore by God, and the sign of the cross, to act faithfully and legally, to the best of their knowledge and belief, without any fraud, and they did not sign, because they said that they did not know how, but I did so with the assisting witnesses.

(Signed) DAVID SPENCE.

Assisting witnesses:
(Signed) Jose Maria Maldonado,
(Signed) Jose Maria Correo.

I, the said alcalde, did immediately order the cord, wherewith the lands are to be measured, to be brought into my presence, and that the measurers should, in presence of neighboring land-holders, measure off fifty varas; said measurers took the same, and with a common Mexican vara-rod, holding it in the hand, they did measure the said fifty varas for the purpose of making said measurement. In testimony whereof, I sign with the assisting witnesses.

(Signed) D. SPENCE.

Assisting witnesses:
(Signed) Jose Maria Maldonado,
(Signed) Jose Maria Correo.

Seal of the third class, Two reales.

Authorized provisionally by the collector of the maritime custom-house of Monterey, Upper California, for the years eighteen hundred and thirty-four and eighteen hundred and thirty-five.

(Signed) ANGEL RAMIREZ.
(Signed) CASTRO.

Señor Constitutional Alcalde:

José Ramon Estrada, a Mexican citizen, says, that having obtained the proper grant of the land known by the name of *El Toro*, he applies to your honor in order that you may be pleased to give him juridical possession in conformity with the requirements of the 3d article of the title of said land, which was granted to me under date of the 16th October, 1835, and which duly accompanies, together with the respective confirmation, which documents you will please to return to me for the uses which I may require.

I request you will put me in the possession which I solicit, whereby I shall receive favor.

Monterey, 5th December, 1835.

(Signed) JOSE R. ESTRADA.

MONTEREY, *December 5th*, 1835.

Considered as presented and admitted; let summonses be served upon the owners of the adjoining lands, and proceedings be commenced for giving the possession asked for, to which effect the seventh of the present month is appointed.

Thus I, the first Constitutional Alcalde, did decree, command, and sign, with the assisting witnesses.

(Signed) DAVID E. SPENCE.

Assisting witnesses:

(Signed) JOSE MARIA MALDONADO,
(Signed) J. MARIA CORREO.

On the same day, citizen José Ramon Estrada being present, the foregoing decree was notified unto him, which having understood, he said that he heard it, and considered himself as summoned, signing with me and the assisting witnesses.

(Signed) JOSE R. ESTRADA.
(Signed) SPENCE.

Assisting witness:

(Signed) JOSE MARIA MALDONADO.

On the same date, the summonses ordered in the foregoing decree were served; in testimony whereof, I note this down and sign with my scroll.

(*Signed with the Alcalde's scroll.*)

In the rancho of *El Toro*, on the seventh day of the month of December, eighteen hundred and thirty-five, I, the Constitutional Alcalde of first nomination, notified unto the owners of the adjoining farms the foregoing decree, and Don Estaban Munras, Don Francisco Mesa, and Don José Estrada, on understanding the same, said that they heard it, and signed with me and the assisting witnesses.

(Signed) ESTEBAN MUNRAS,
(Signed) SPENCE,
(Signed) JOSE ESTRADA.

Assisting witnesses:
(Signed) Jose Maria Maldonado, and
J. M'a Correo.

Immediately afterwards, in the same rancho, and on the same day, month, and year, I, the said alcalde, in compliance with the decree of the 5th instant, the owners of the adjoining farms being present for the measurement, designation of boundary, and judicial possession, did appoint as measurers citizens Luciana Felez and Julian Guerrero, who, after accepting and being sworn, will proceed to fulfil their charges.

Thus I, the said Alcalde, did decree, command, and sign, with the assisting witnesses.

(Signed) DAVID SPENCE.

Assisting witnesses:
(Signed) Jose Maria Maldonado,
(Signed) Jose Maria Correo.

On the same date, and in the same rancho, the appointment was notified to citizens Luciano Felix and Julian Guerrero, who said that they accepted it, and swore by God, and the sign of the cross, to act faithfully and legally, to the best of their knowledge and belief, without any fraud, and they did not sign, because they said that they did not know how, but I did so with the assisting witnesses.

(Signed) DAVID SPENCE.

Assisting witnesses:
(Signed) Jose Maria Maldonado,
(Signed) Jose Maria Correo.

I, the said alcalde, did immediately order the cord, wherewith the lands are to be measured, to be brought into my presence, and that the measurers should, in presence of neighboring land-holders, measure off fifty varas; said measurers took the same, and with a common Mexican vara-rod, holding it in the hand, they did measure the said fifty varas for the purpose of making said measurement. In testimony whereof, I sign with the assisting witnesses.

(Signed) D. SPENCE.

Assisting witnesses:
(Signed) Jose Maria Maldonado,
(Signed) Jose Maria Correo.

Seal of the third class, Two reales.

Authorized provisionally by the collector of the maritime custom-house of Monterey, Upper California, for the years eighteen hundred and thirty-four and eighteen hundred and thirty-five.

(Signed) ANGEL RAMIREZ.
(Signed) CASTRO.

Señor Constitutional Alcalde:

José Ramon Estrada, a Mexican citizen, says, that having obtained the proper grant of the land known by the name of *El Toro*, he applies to your honor in order that you may be pleased to give him juridical possession in conformity with the requirements of the 3d article of the title of said land, which was granted to me under date of the 16th October, 1835, and which duly accompanies, together with the respective confirmation, which documents you will please to return to me for the uses which I may require.

I request you will put me in the possession which I solicit, whereby I shall receive favor.

Monterey, 5th December, 1835.

(Signed) JOSE R. ESTRADA.

MONTEREY, *December 5th*, 1835.

Considered as presented and admitted; let summonses be served upon the owners of the adjoining lands, and proceedings be commenced for giving the possession asked for, to which effect the seventh of the present month is appointed.

Thus I, the first Constitutional Alcalde, did decree, command, and sign, with the assisting witnesses.

(Signed) DAVID E. SPENCE.

Assisting witnesses:

(Signed) JOSE MARIA MALDONADO,
(Signed) J. MARIA CORREO.

On the same day, citizen José Ramon Estrada being present, the foregoing decree was notified unto him, which having understood, he said that he heard it, and considered himself as summoned, signing with me and the assisting witnesses.

(Signed) JOSE R. ESTRADA.
(Signed) SPENCE.

Assisting witness:

(Signed) JOSE MARIA MALDONADO.

On the same date, the summonses ordered in the foregoing decree were served; in testimony whereof, I note this down and sign with my scroll.

(*Signed with the Alcalde's scroll.*)

In the rancho of *El Toro*, on the seventh day of the month of December, eighteen hundred and thirty-five, I, the Constitutional Alcalde of first nomination, notified unto the owners of the adjoining farms the foregoing decree, and Don Estaban Munras, Don Francisco Mesa, and Don José Estrada, on understanding the same, said that they heard it, and signed with me and the assisting witnesses.

(Signed) ESTEBAN MUNRAS,
(Signed) SPENCE,
(Signed) JOSE ESTRADA.

Assisting witnesses:
(Signed) Jose Maria Maldonado, and
J. M'a Correo.

Immediately afterwards, in the same rancho, and on the same day, month, and year, I, the said alcalde, in compliance with the decree of the 5th instant, the owners of the adjoining farms being present for the measurement, designation of boundary, and judicial possession, did appoint as measurers citizens Luciana Felez and Julian Guerrero, who, after accepting and being sworn, will proceed to fulfil their charges.

Thus I, the said Alcalde, did decree, command, and sign, with the assisting witnesses.

(Signed) DAVID SPENCE.

Assisting witnesses:
(Signed) Jose Maria Maldonado,
(Signed) Jose Maria Correo.

On the same date, and in the same rancho, the appointment was notified to citizens Luciano Felix and Julian Guerrero, who said that they accepted it, and swore by God, and the sign of the cross, to act faithfully and legally, to the best of their knowledge and belief, without any fraud, and they did not sign, because they said that they did not know how, but I did so with the assisting witnesses.

(Signed) DAVID SPENCE.

Assisting witnesses:
(Signed) Jose Maria Maldonado,
(Signed) Jose Maria Correo.

I, the said alcalde, did immediately order the cord, wherewith the lands are to be measured, to be brought into my presence, and that the measurers should, in presence of neighboring land-holders, measure off fifty varas; said measurers took the same, and with a common Mexican vara-rod, holding it in the hand, they did measure the said fifty varas for the purpose of making said measurement. In testimony whereof, I sign with the assisting witnesses.

(Signed) D. SPENCE.

Assisting witnesses:
(Signed) Jose Maria Maldonado,
(Signed) Jose Maria Correo.

On the same spot, day, month, and year, it being eleven o'clock in the day, I commanded the said measurers to place themselves in order to make the measurement to Citizen José Ramon Estrada; and commencing at Mesar creek, the boundary of Corral de Tierra, they measured from south to north to the river of Monterey, two hundred cords of fifty varas each; from the ridge of the Pilarcitos to the Paso de Quinto, the boundary of Buenavista, thirty cords likewise of fifty varas each; and all the remainder consists of three thousand Mexican varas in breadth.

In witness whereof, I sign with the owners of the neighboring farms, and the assisting witnesses.

(Signed) DAVID SPENCE,
(Signed) ESTEBAN MUNRAS,
(Signed) JOSE ESTRADA.

Assisting witnesses:
(Signed) JOSE MARIA MALDONADO,
(Signed) J. MARIA CORREO.

In the rancho of El Toro, on the seventh day of the month of December, eighteen hundred and thirty-five, I, the first constitutional alcalde of the capital of the Territory, after the conclusion of the measurement of the rancho called El Toro in the manner designated in the foregoing measurement, the adjoining land-holders, citizens Francisco Mesa, José Estrada, and Esteban Munras, being present and satisfied with all the rest that was thought proper to be done, I commanded that said Citizen José Ramon Estrada should enter into peaceable possession of said land according to the said measurement and customary formalities in like cases; which he did, pulling up grass and making demonstrations as owner of the land granted to him by the most excellent deputation, and whereof peaceable possession has been given to him, the validity whereof I authorized and sign with the said adjoining land-owners and assisting witnesses.

(Signed) DAVID SPENCE,
(Signed) ESTEBAN MUNRAS.
(Signed) JOSE ESTRADA.

Assisting witnesses:
(Signed) JOSE MARIA MALDONADO,
(Signed) J. MARIA CORREO.

MONTEREY, 11*th December*, 1835.

Let a record of this title be made on the Book of Possessions, and the original expediente be returned to the party interested. Thus I, the alcalde of first nomination, did determine, command and sign with the assisting witnesses.

(Signed) DAVID SPENCE.

Assisting witnesses:
(Signed) JOSE MARIA MALDONADO,
(Signed) J. MARIA CORREO.

On the same day a record was made in the respective book, on the other side of folio 4, and the expediente, consisting of six useful folios, besides two on blank, was returned.

In witness whereof, I sign with the assisting witnesses.

(Signed) DAVID SPENCE.

(Signed) JOSE MARIA MALDONADO, Assisting witness.

(Signed) J. MARIA CORREO, Assisting witness.

I, the undersigned, do hereby certify the foregoing to be true and faithful translations of the original documents in possession of Charles Walter. W. E. P. HARTNELL,

State Translator.

STATE TRANSLATOR'S OFFICE,

Monterey, 27th November, 1851.

Note.—The interlineation of "was returned" was made by myself.

W. E. P. HARTNELL.

I certify the foregoing to be a true and correct translation from a copy of the original Spanish document; which copy, being Exhibit A, filed with the petition in case No. 191, Charles Walters, and made a part of the deposition of David Spence, taken before Commissioner Henry J. Thornton, April 23d, 1852, and filed in this office.

GEO. FISHER, *Sec'y.*

Filed in office, April 20th, 1852.

GEO. FISHER, *Sec'y.*

"Documento C."

Testam'to de José Ramon Estrada.

En el nombre de Dios todo poderoso, amen. Yo José Ramon Estrada, natural de este puerto y hijo legitima de D. Mariano Estrada, natural de la bajo California, y de D'n Ysabel Argüello ya difunta; halle audome en fermo y en el libre uso de mis potencias y sentidas y conferando como confieso todos los misterios, de n'tra sta. religion Catolica apostolica Romana, en cuya fé y creencia, he vivido y protesto morir; otorgo y hajo este mi testamento (delante de los testigos abajo firmados) en la forma siguiente:

1a. En primer lugar declaro que fui casado y velado in facio ecclecian con D'n Maria Castro, y a defunta lu cuyo matrimonio notubimos hijas.

2a. Igualmente declaro q. fuera de matrimonio no he tenido ni reconosco hijo alguno.

3a. Declaro igualmente que reconosco por mis bienes la casa y corral conocido por de mi propriedad en este puerto el rancho del "Toro," con corral, casa de palo parado, quinientos reses poco mas ó menos sin el heradero y cuatro cavallos de mi sillas, el rancho de San Simeon con

su casa de adabe techa da de teja, una manada de cien cabesas en el rancho de mi hermano Julian, y dos mil dos cientos veinte y nueve pesos, que el gobierno me debe por suel dos de las cuales quinientos pesos debe quedan en poder del mismo gobierno p'a gratifica á los Yndios de San Miguel, que mi cedieron su dro. al rancho de San Simeon.

4a. Declaro que say dendor a D. José Ma. Castanares de dos cientos sesenta y un pesos tres reales, á D. Antonio Osio trenta y tres pesos curco reales, á D. Salvador Munras veinte y cuatro con seis, á D. Tomas Larkin diez y seis pesos, á D. Santiago Watson sesenta y uno, á D. David Spence noventa y uno, al Capitan Paty ochenta y ocho con siete, á D. Rafael Gonzalez cincuenta y siete, á D. Santiago Stokes cincuenta y cuatro con seis, á D. H. C. Mellus cincuenta y cuatro, á D. Manuel Dias ciento ocho pesos, al S'r Aguerre ignoro la cantidad, y á Don Eulogio Celez ciento y pico depesos de cuya cantidad se deben rebajar cinco reses que entreque a la "Clarita," y tres al "Catalina," á ocho pesos cada una, y es mi voluntad que del cuerpo de mis bienes despues de estrabudos los gastos de mi entierro y funeral, proceda mi Albacea á pajar el total importe de las referidas devi'as y cualquera otra que justificarla resultaré en mi contra.

5a. Declaro q. tenza en mi poder treinta reses pertenecientes á la Yglesia de este puerto por donacion que le hizo mi difunta esposa, ygualmente declaro que del valor de treinta reses q. debe aplicarse de misas por el alma de mi citada esposa solo tenza habonado cincuenta pesos, estoy igualmente obligado á entablar la sacristia y ponerle una ventana.

6a. Declaro igualmente qe. á mi criado Antonio Montes, por sus buenas servicios es mi voluntad degarle para si sus herederos subseroses el citio de mi propiedad nombrado el "Toro," con treinta bacas mansas, cinquente baquillos, y los caballos y lleguas que existen en el servicio del rancho.

7a. Ygualmente mando q. se apliquen por mi alma quinientas misas dando de limosna un peso por cada una.

8a. Y despues de cumplido y pagado todo lo espresado, del remaniente de mis biens, muebles, raices, derechos, y acciones, presentes y futuros, instituyo por mi unico y universal heredero á mi Padre D. Mariano Estrada.

9a. Y p'a cumplir y ejecutar esta mi ultima, voluntad nombra por mi unico albacea á D'n David Spence, de este comercio.

Monterey, veinte y uno de Marzo, 1844. A. Montes deven darsele tambian cincuenta nobilletos. Monterey, fha espresada.

JOSE R. ESTRADA.

ESTEBAN MUNRAS,
SANTIAGO WATSON,
MARCELINO ESCOBAR,
C. WALTER,
SALVADOR MUNRAS,
JOSE DE AMESTI,
MAN'L DIAS.

Sello Segundo—Cuatro Pesos.

Habilitado provisionalmente por la del puerto de Monterey, en el departamiento de las Californias, para los años de mil ochocientos cuarento y cuatro y mil ochocientos cuarenta y cinco.

MICHELTORENA,
PABLO DE LA GUERRA,
MANDADO AGREGAR,
SERRANO.

[Ada. Maratima De Mont'y. Place of eagle.]

Sello Cuarto—Dos Reales.

Habilitado provicionalmente por la Aduana Maritima del puerto de Monterey, en el departamiente de las Californias, para los años de mil ochocientos cuarenta y cuatro y mil ochocientos cuarenta y cinco.

MICHELTORENA,
PABLO DE LA GUERRA.

[Ada. Marita. De Monty. Place of eagle.] En el puerto de Monterey de la Alta California, á los diez y ocho dias del mes de Abril del año de mil ochocientos cuarenta y cuartio, ante mi Florencio Serrano Alcalde 2o. constitutional, y ante los de asistenciá con quienes actuo pr. receptona á falta de todo escribano publico fueron presentes D. David Spence y D. Mariano Estrada, el primo. como Albacca del finado José Ramon Estrada, cuya persona doy fé, conoci, y el segundo como unico heredero has cendiente y padre del referido José Ramon y me presentaron el testamto. otorgado pr. este ultimo padiendo su antorizacion juridica en virtud de haber sido otorgado estra-judiciam'te y hallarse escrito en papel comun, el q. recibido pr. mi y en virtud de hallarse firmado pr. siete testigos presenciales ql. la son los C. C. Esteban Munras, Santiago Watson, Marcelino Escobar, C. Walter, Salvador Munras, José de Amesti y Manuel Dias; ecsaminense d'hos testigos bayo el juramto. de estilo sobre el contenido de las nueve clausulas de q. coneta el Testamento pa. la correspondte. idoneidad de las firmas agreguese el pliego de papel del sello segundo, ql. le corresponde y concluidas estas diligencias entregeuse originales á la parte pd. los usos q. les convengan. Asi lo mandé, y firmé haciendolo con migo y los de asa., los espresados Ss. David Spence y Mno. Estrada, doy fé.

FLORENCIO SERRANO,
DAV. SPENCE.

De asa: AMBROSIO GOMEZ,
" JOSÉ A. CHAVES.

En el mismo dia, mes y año, fui presente ante mi y los de mi asistencio, el Ciudo. Esteban Munras, el q. previo juramto. de estilo q. hijo conforme a d'ro, y pr. el afrecio decir verdad, se le pregunto su nombre, edad y ejercicio y digo; llamarse como queda dicho, de edad de cincuenta y cuatro años y de ejercicio agricola.

Habiendole preguntado si conoce el pliego ql. se le presenta, si la

firma, ql. en el se vé con su nombre la recive y reconoce pr. sulla, si conoce á los testigos ql. en d'ho obran, con todo lo demas ql. le conste; contesto ql. el pliego ql. se la presenta es el testamto. otorgado pr. D. José Ramon Estrada, ql. las nueve clausulas de ql. consta las vió escribir y las alló espresar verbalmente al otorgante el cual la firma en presencia del ql. declara y de los C. C. Manuel Dias, Santiago Watson, C. Walter, Salvador Munras, Marcelino Escobar y José de Amesti, los ql. tambien firmaron; ql. la firma ql. en d'ho, testamto. se vé con el nombre del ql. declara es la mesma ql. puso, la ql. usa en todos sus escritos y ql. la reconoce y recive pr. sulla lo ql. firmó con migo y los de asa. doy fé.

FLORENCIO SERRANO,
ESTEBAN MUNRAS.

De a'sa: AMBROSIO GOMEZ,
" JOSE A. CHAVES.

A acto continuo fué presente D. Santiago Watson, el q. previo el juramto. q. hijo conforme á d'ro, y pr. el ofreció decir verdad, se le preguntó su nombre, edad ejercicio, y dego; llamarse como queda dicho de edad de treinta y nueve y de ejercicio comerciante.

Habiendole preguntado, si conoce el pliego q. se le presenta, si la firma q. en el se vé con su nombre la recive y reconoce pr. sulla, si conoce á los testigos q. en d'ho pliego obran, con todo lo demas q. sepa y le conste; digo que el pliego q. se le muestra es el testam'to otorgado pr. D. José R. Estrada, q. las nueve clausulas q. la forman las vio escribir y las oyo espresar erbalmente al otorgante como su ultima voluntad, y ho firmó en presencia del ql. declara y de las C. C. Manuel Diaz, C. Walter, Salvador Munras, Marcelina Escobar, José de Amesti y Esteban Munras, quienas tambien firmaron, ql. la firma ql. en d'ho testam'to se vé con el nombre del que declara es la misma ql. puso, la ql. usa en todos sus escritos y que la reconoce y recive pr. sulla y la firmo con migo y los de asistencia, doy fé.

FLORENCIA SERRANO,
SANTIAGO WATSON. *De.*

Sello Cuarto—Dos Reales.

Habilitado provisionalmente por la Aduana Maratima del puerto de Monterey, en el departamento de las Californias, para los años de mil ochocientos cuarenta y cuatro y mil ochocientos cuarenta y cinco.

PABLO DE LA GUERRA.
MICHELTORENO.

De as'a: AMBROSIO GOMEZ,
" JOSÉ A. CHAVES.

[Ada. Marita. de Monty.
Place of eagle.]

A continuacion sienda presente D. Manuel Diaz, se le recibio juram'to, segun derecho, bajo el cual afrecio decir verdad, en todo lo ql. supiere y habiendole preguntado pr. su nombre, edad y ejercicio dijo; llamarse como se ha dicho, de edad de trenta y dos años y de ejercicio comerciante.

Preguntado si conoce el pliego ql. se le presenta, si la firma ql. en el se vé con su nombre, la recive y reconoce por sulla, si conoce á los testigos ql. en d'ho pliego obran, con todo lo demas ql. sepa y le consté, contestó que el pliego ql. se le muestra es el testam'to que otorgá D. José R. Estrada, que las nueve clausulas que lo forman las vio, escribir y se las ayó espresar verbalmente al otorgante como su ultima voluntad y lo firmó en presencia del ql. declara, y de las Ss. Santiago Watson, C. Walter, Salvador Munras, Marcelino Escobar, José de Amesti y Eesteban Munras, quienes tambien firmaron; que la firma que en d'ho testam'to se vé con el nombre, del que declara es la misma que puso la ql. usa en todo sus escritos la cual reconoce y recibe pr. suya y lo firmó con migo y los de asistencia, doy fé.

FLORENCIO SERRANO,
MAN'L DIAZ.

De as'a: AMBROSIO GOMEZ,
JOSÉ A. CHAVES.

Ynmediatamente siendo presente D. C. Walter, se les recibio juram'to segun d'ro pr. el cual ofrecio decir verdad en todo lo ql. fuere preguntado y siendolo pr. su nombre, edad y ejercio dijo; llamarse como se ha d'ho, de edad de cincuenta y un años, de ejercio comerciante.

Preguntado si conoce el pliego que se le presenta, si la firma que en el se vé con su nombre, la recive y reconoce por suya, si conoce á los testigos ql. en el obran, con todo lo demas ql. sepa y le conste respondió; ql. el pliego que se le muestra es el testam'to ql. otorgó y firmó de su firmo D. José R. Estrada, en presencia del ql. declara y de los C. C. Manuel Diaz, José de Amesti, Santiago Watson, Salvador Munras, Marcelino Escobar y Esteban Munras, quienes tambien lo firmaron; que las nueve clausulas de ql. se compone, las bieron escribir y se las alleran, espresan verbalmente al otorgante como su ultima voluntad, y ql. la firma que en el referido testam'to se vé con el nombre del que declara es la misma ql. puso, la que usa en todos sus escritos, y que la recive y reconoce pr. suyo y lo firmó con migo y los de as'a.

FLORENCIO SERRANO,
C. WALTER.

De as'a: AMBROSIO GOMEZ,
JOSE A. CHAVES.

Yncontinente sienda presente D. Marcelino Escobar se le tomo juram'to conforme a d'ro pr. el cual ofrecio decir verdad en la que fuere preguntado y siendole pr. su nombre, edad, y ejercicio dijo; llamarse como se ha dicho, de edad de cuarenta y siete años, y su ejercicio de agricultor.

Habiendole preguntado si conoce el pliego que se la presenta, si la firma que en el se vé con su nombre le recive, y reconoce pr. suya, y si conoce á los testigos ql. en d'ho pliego obran, con todo lo demas que sepa y le conste; contesto que el pliego ql. se le muestra es el testam'to

ql. otorgo D. José R. Estrada, y firmo de su puño, en presencia del ql. declara y los C. C. Esteban Munras, José de Amesti, C. Walter, Santiago Watson, Manuel Diaz, y Salvador Munras, quienes tambien firmaron; ql. las nueve clausulas de ql. se forma las vieron escribir y se las oyeron espresar verbal'mt al otorg'te y ql. la firma que en d'ho testam'to se vé con el nombre del ql. espone es la misma que puso, ql. la recive, y reconoce pr. suya pr. ql. es la misma que usa en todos sus escritos y lo firmo con migo y los de as'a, doy fé.

FLORENCE SERRANO,
MARCELINO ESCOBAR.

De as'a: AMBROSIO GOMEZ,
" JOSE A. CHAVES.

A acto continuo comparicio D. José A—

[Sello Cuarto, Dos Reales.

Habilitado provisionalmente por la Aduana Maritima del puerto de Monterey, en el departamento de las Californias, para los años de mil ochocientos cuarenta y cuatro y mil ochocientos cuarenta y cinco.

MICHELTORENA. PABLO DE LA GUERRA.]

—mesti el ql. juramentado segun d'ro ofrecio decir verdad en todo lo que fuere preguntado; y siendolo pr. su nombre, edad y ejercicio digo; llamarse como queda d'ho de edad de cin'ta y cinco años y de ejercicio labrador.

[Ada. Marita. de Monty. Place of eagle.]

Preguntado si conoce el pliego ql. se le presenta, si la firma, que en el se vé con su nombre, la reconoce y recive, por suya, si conoce á los testigos ql. en d'ho pliego obran, con todo lo demas ql. sepa y le conste; dijo que el pliego que se le muestra es el testam'to, ql. otorgo y firmo D. José R. Estrada, en presencia del ql. espone y de los Ss. Manuel Diaz, Esteban Munras, Santiago Watson, Salvador Munras, Marcelino Escobar, y C. Walter; quienes tambien lo firmaron; que las nueve clausulas ql. la formaron las vieron escribir y las oyeron espresar verbalmente al otorgante como su ultimo voluntad y que la firma, ql. d'ho testam'to, se vé con el nombre del ql. declara es la misma que puso con su puño y letra, la ql. usa en todas sus escritos, ql. la reconoce pr. suya y ql. pr. tal la recive; que lo d'ho es la verdad á cargo del juram'te ql. tiene hecha y lo firmo con migo y los de as'a, doy fé.

JOSE DE AMESTI,
FLORENCIOSERRANO.

De as'a: AMBROSIO GOMEZ,
" JOSE A. CHAVEZ.

Yncontinte. fué presente D. Salvador Munras, y juramentado conforme d'ro ofrecio decir verdad en todo lo ql. supiere y fuere preguntado y siendolo pr. su nombre, edad, y ejercicio dijo, llamarse como se ha dicho, de edad de cuarenta y cinco años, de ejercicio comerciante.

Habiendole preguntado si conoce el pliego ql. se le presenta, si la

firma ql. en el se vé con su nombre, la recive y reconoce pr. suya, y si conoce á los testigos ql. dh'o pliego, obran, con todo lo demas ql. sepa y le conste; respondio que el pliego que se le presenta es el testamento que otorga y firmó D. José R. Estrada, en presencia del que declara y las Ss. Manuel Diaz, Santiago Watson, C. Walter, Marcelino Escobar, José Amesti, y Esteban Munras, quienes tambien firmaron; ql. las nueve clausulas que lo forman se las ayeron, espresan verbalmente al otorgante y las vieron escribir, que la forma ql. en d'ho testam'to se vé con el nombre del que espone es la misma ql. puso, con su puño y letra la que usa en todo sus escritos, que la reconoce por suyo y que por tal la recibi firmando con migo y las de asa., doy fé.

FLORENCIO SERRANO.
SALVADOR MUNRAS.

De as'a: AMBROSIO GOMEZ,
De as'a: JOSE A. CHAVES.

En el mismo dia, mes y año, yo el juez actuante en vista de haberse ecsaminado las siete testigos ql. presenciaron el testamento otorgado pr. D. José R. Estrada, y cumpliendo con lo dispuesto pr. mi en el auto ql. se vé á fojas una, mandé acumular estas diligencias al dh'o testamento agregandore el pliego de papel del sello segundo, de ql. habla mi dh'o auto, todo lo cual se verifico y pa. constancia lo firmo con los de mi asa. mandando se entreguen estas diligencias originales, á la parte pa. que haya de ellas el uso ql. mejor le combengan, doy fé.

FLORENCIO SERRANO.

De a'sa: AMBROSIA GOMEZ,
De a'sa: JOSE A. CHAVES.

Ynmediatamento se entregaron al albacea Dn. David Spence, estas diligencias constantes de seis fojas utiles, con el testam'to original y el pliego mandado agregar lo ql. pongo pr. diliga. y rubrico.

SERRANO.

Me consta que el albacea Don David Spence ha cumplido con todo lo mandado en este testamento.

JOSE MA. ESTRADA.

MONTEREY, 31 de Marzo, de 1845.

Filed in office September 6th, 1852.

GEO. FISHER, *Sec'y.*

Recorded in Record of Evidence, Vol. II, page 157.

GEO. FISHER, *Sec'y.*

Translation of Estrada's Will.

Will of Jose Ramon Estrada.

In the name of Almighty God. Amen.

I, Jose Ramon Estrada, born at this port, and legitimate son of D. Mariano Estrada, a native of Lower California, and of Doña Isabella Arguello, now dead, being sick, and in the full exercise of my powers and will, and confessing as I confess all the mysteries of our Holy Roman Apostolic Catholic religion, in which faith and belief I have lived and hope to die, declare and make this my will, (before the witnesses signed below,) in the following form:

1st. In the first place, that I was married in facie ecclesia with Doña Maria Castro, now dead, by which marriage we had no children.

2nd. Also, I declare that outside of marriage I have neither had nor recognise any child.

3d. I declare also, that I recognise as my property the house and corral known as mine in this port; the rancho of "The Toro," with corral, log-house, five hundred cattle, a little more or less, without the iron, and four saddle-horses; the rancho of "San Simeon" with the adobe house, roofed with tile, a band of one hundred mares, in the rancho of my brother Julian; and two thousand two hundred and twenty-nine dollars, which the Government owes me as my salary, five hundred dollars of which must be left in the power of the same Government to present to the Indians of San Miguel, who ceded me their right to the rancho of San Simeon.

4th. I declare that I owe Don José Mario Castenares two hundred and seventy-one dollars and three reales; to Don Antonio Osio thirty-three dollars and three reales; to Don Salvador Munras twenty-four dollars and six reales; to Don Santiago Watson seventy-one dollars; to Don Tomas Larkin sixteen dollars; to Don David Spence ninety-one dollars and one real; to Captain Paty eighty-eight dollars and seven reales; to Don Rafael Semelo fifty-seven dollars; to Don Santiago Stokes fifty-four dollars and six reales; to Don H. Mellus fifty-four dollars; to Don Manuel Dias one hundred and eight dollars; to Señor Aguerre, I do not know how much; and to Don Eulogio Celiz one hundred and some dollars, of which quantity there should be deducted five steers to be given to "Clarita" and three to "Catalina," at eight dollars each; and it is my will that from the body of my property, after defraying the expenses of my funeral and burial, my executor will proceed to pay the whole amount of my aforesaid debts, and whatever may be proved as being against me.

5th. I declare that I have in my possession thirty steers belonging to the church of this port, by the gift of my deceased wife; and I also declare that of the value of thirty steers, which ought to be applied to masses for the soul of my said wife, I only have paid fifty dollars; I also am under obligation to floor the sachristy and put in a window.

6th. I also declare that, to my servant Antonio Montes, on account

of his good conduct, it is my will to leave to him, his heirs and successors, the place belonging to me called "*El Toro*," with thirty tame cows, fifty heifers, and the horses and mares which are now in the service of the rancho.

7th. I also order that there be applied for my soul five hundred masses, and one dollar in charity be given for each one.

8th. And after fulfilling and paying all the above, of the remainder of my property, movable and real, rights and actions, present and future, I constitute as my universal and only heir my father Don Mariano Estrada.

9th. And for the fulfilment and execution of this my last will, I appoint as my only executor Don David Spence of this place.

MONTEREY, *March* 21*st*, 1844.

And Montes ought also to give fifty steers. Monterey, date as above.

JOSE R. ESTRADA.

ESTEBAN MUNRAS,
SANTIAGO WATSON,
MARCELINO ESCOBAR,
C. WALTER,
SALVADOR MUNRAS,
JOSE DE AMESTE,
MANUEL DIAS.

(Stamp paper attached.)—Stamp second, Two dollars.

Provisionally authorized by the maritime custom-house of the port of Monterey, in the department of the Californias, for the years 1844 and 1845.

PABLO DE LA GUERRA.

MICHELTORENO.

Stamp fourth, Two reales.

Provisionally authorized by the maritime custom-house of the port of Monterey, in the department of the Californias, for the years 1844 and 1845.

PABLO DE LA GUERRA.

MICHELTORENO.

[Custom house Stamp.]

In the port of Monterey, of Upper California, on the 18th of April, 1844, before me, Florencio Serrano, 2nd alcalde constitutional, and before those of my assistance with whom I act as delegate judge for want of any notary public, appear Don David Spence and Don Mariano Estrada, the first as executor of the deceased José Ramon Estrada, whose persons I certify I know, and the second as only ascending heir, and father of the said José Ramon, and presented to me the will executed by the last-named, extra-judicially and written on common paper, and which was received by me; and in virtue of being signed by seven wit-

nesses present who were citizens—Esteban Munras, Santiago Watson, Marcelino Escobar, C. Walters, Salvador Munras, José de Amesti and Manuel Dios—let said witnesses be examined under the prescribed oath as to the contents of the nine clauses composing the will, for the corresponding genuineness of the signatures; let a sheet of paper of the second stamp corresponding be attached, and all the proceedings being completed, let the originals be delivered to the parties for their proper uses. Thus I ordered and signed, the said David Spence and Mariano Estrado signing with me and those of my assistance, of which I certify.

FLORENCIO SERRANO.
DAVID SPENCE.

AMBROSIO GOMEZ,
JOSE A. CHAVES, } Of assistance.

On the same day, month and year, present before me, and those of my assistance, citizen Esteban Munras, who was sworn in legal form to tell the truth, and being asked his name, age and profession, said: His name was above; his age 54 years; his profession a farmer.

Being asked if he knew the paper presented to him; if he received and recognised his name signed on it as his signature; if he knew the witnesses and whatever else he knew, answered, that he knew the paper shown to him; it is the will executed by Don José Ramon Estrada, the nine clauses of which he saw written and heard read to the person making the will, and who signed it in the presence of the witness and of citizens Manuel Dios, Santiago Watson, C. Walter, Salvador Munras, Marcelino Escobar and José de Amesti, who also signed it; that the name of witness which he sees on said will is his own signature which he put there, which he uses in all his writings, and which he recognises, received as his; and he signed this with me and those of my assistance, which I certify.

FLORENCIO SERRANO.
ESTEBAN MUNRAS.

AMBROSIO GOMEZ,
JOSE A. CHAVES, } Of assistance.

In continuation appeared Don Santiago Watson, who was duly sworn to tell the truth, and being asked his name, age and business, answered: His name was as above, his age thirty-nine, and his business a merchant. Being asked if he knew the paper presented to him; if he received and recognised his name signed on it as his signature; if he knew the witnesses on said paper, and whatever else he knew, answered, that he did know the paper shown him; it is the will executed by Don José Ramon Estrada, the nine clauses of which he saw written and read to the person making the will, and who signed it in the presence of witness and of citizens Manuel Dios, C. Walter, Salvador Munras, Marcelino Escobar, José de Amesti, and Esteban Munras, who also signed it; that the name of witness which he sees on said paper is his own signature

which he put there, which he uses in all his writings and which he recognises and receives as his own; and he signed with me and those of my assistance.

FLORENCIO SERRANO.
SANTIAGO WATSON.

AMBROSIO GOMEZ, } Of assistance.
JOSE A. CHAVES, }

In continuation appeared Don Manuel Dias, took the proscribed oath, under which he promised to tell the truth, so far as he knew, and being asked his name, age, and profession, said: His name was above; his age 32 years, and his profession a merchant.

Being asked if he knew the paper presented to him; if he received and recognised his name signed on it as his signature; if he knew the witnesses on said paper; and to say whatever else he knew, answered, that the paper shown him is the will which Don José Ramon Estrada executed; that the nine clauses of which it is composed he saw written, and heard them read verbally to the party making it as his last will, and he signed it in the presence of witness and of Santiago Watson, C. Walter, Salvador Munras, Marcelino Escobar, José de Amesti, and Esteban Munras, who also signed it; that the signature of witness on said will is the same which he put there, is that which he uses in all his writings, and which he recognises and receives as his; and he signed with me and those of my assistance, which I certify.

FLORENCIO SERRANO,
MANUEL DIAS.

AMBROSIO GOMEZ, } Of assistance.
JOSE A. CHAVES, }

Immediately appeared Don C. Walter, and took the prescribed oath, by which he promised to tell the truth in all that he was asked; and being asked his name, age, and profession, said: His name was as above; his age fifty-one years, and by profession a merchant.

Being asked if he knew the paper presented to him; if he received and recognised his name signed on it as his signature; if he knew the witnesses on said paper; and whatever else he knew, answered, that the paper shown him is the will made and signed with the hand of Don José R. Estrada, in the presence of witness and of citizens Manuel Dias, José de Amesti, Santiago Watson, Salvador Munras, Marcelino Escobar, and Esteban Munras, who also signed it; that the nine clauses of which it is composed they saw written, and heard verbally read to the person making it as his last will, and that the signature, which in his name he sees on said will, is the same which he put there, which he uses in all his writings, and which he receives and recognises as his own; and he signed with me and those of my assistance.

FLORENCIO SERRANO,
C. WALTER.

AMBROSIO GOMEZ, } Of assistance.
JOSE A. CHAVES, }

Immediately after appeared Don Marcelino Escobar, and was sworn in the prescribed form to tell the truth in what he should be asked; and being asked his name, age, and profession, answered, that his name was as above; his age 47 years, and his profession a farmer.

Being asked if he knew the paper presented him; if he received and recognised his name on it as his signature; if he knew the witnesses on the paper; and whatever else he knew, answered, that the paper shown him is the will made by Don José R. Estrada, and signed with his own hand in the presence of the witness and of citizens Esteban Munras, José de Amesti, C. Walter, Santiago Watson, Manuel Dias, and Salvador Munras, who also signed it; that he saw written the nine clauses of which it is composed, and which were read verbally to the person who made it, and that his name, which he sees signed to said will, is his own signature which he put there, and which he recognises and receives as his, and is the same which he uses in all his writings; and he signed with me and those of my assistance.

FLORENCIO SERRANO,
MARCELINO ESCOBAR.

AMBROSIO GOMEZ, } Of assistance.
JOSE A. CHAVES, }

In continuation appeared Don José de Amesti, and took the prescribed oath to tell the truth in whatever he was asked; and being asked his name, age, and profession, answered, that his name was as above; his age 55 years, and his profession a farmer.

Being asked if he knew the paper presented to him; if his name which he saw on it was his signature, and if he knew the witnesses on said paper, and whatever else he knew, answered, that the paper shown him is the will which Don José R. Estrada made and signed in his presence, and in the presence of Manuel Dias, Esteban Munras, Santiago Watson, Salvador Munras, Marcelino Escobar, and C. Walter, who also signed it; that the nine clauses which formed it they saw written, and heard read verbally to the testator as his last will; and that the name which he sees on said will is the same signature which he put on it with his own hand, which he uses in all his writings, which he recognises as his own, and receives as such; that the foregoing is the truth, under the oath which he has taken, and he signed with me and those of my assistance, of which I certify.

FLORENCIO SERRANO,
JOSE DE AMESTI.

AMBROSIO GOMEZ, } Of assistance.
JOSE A. CHAVES, }

Immediately appeared Don Salvador Munras, and took the proper oath, to tell the truth in all he knew and was asked; and being asked his name, age, and profession, said: His name was as above; his age 45 years, and by profession a merchant.

Being asked if he knew the paper presented to him; if he received and recognised his name which he saw on it as his signature; if he knew the witnesses on said document, and whatever else he knew,

answered, that the document presented to him is the will which Don José R. Estrada made and signed in the presence of witness and of Manuel Dias, Santiago Watson, C. Walter, Marcelino Escobar, José de Amesti, and Esteban Munras, who also signed it; that they heard read verbally to the testator, and saw written the nine clauses which composed it; that his signature which is shown him on said will is the same which he put there with his own hand, which he uses in all his writings, and which he recognises as his and receives as such, and he signed with me, and those of my assistance, of which I certify.

FLORENCIO SERRANO,
SALVADOR MUNRAS.

AMBROSIO GOMEZ, } Of assistance.
JOSE A. CHAVES, }

On the same day, month, and year, I, the judge, having examined the seven witnesses who witnessed the will made by Don José R. Estrada, and in compliance with my order in the first page, direct these proceedings to be attached to said will, and a sheet of paper of stamp record, as mentioned in said order; all of which was done, and in testimony I sign this, with those of my assistance, ordering these original proceedings to be delivered to the party for the use deemed best, of which I certify.

FLORENCIO SERRANO.

AMBROSIO GOMEZ, } Of assistance.
JOSE A. CHAVES, }

Immediately delivered to the executor, Don David Spence, these proceedings in six leaves, with the original will, and the paper ordered to be attached, which is noted and rubricked.

SERRANO.

It is proved to me that the executor, Don David Spence, has complied with all the directions of this will.

JOSE MA. ESTRADA.

MONTEREY, *Mch.* 31*st*, 1845.

Conveyance from Montes to Walters.

En el Puerto de Monterey, á las cuatro dias del mes de Junio, del año de un mil ochocientos y cuarenta y siete, ante mi, Walter Colton, alcalde primero de la jurisdiccion de Monterey, y los testigos que suscriben, parecio de presente José A. Montes, de oca vecino de esta jurisdiccion hace mas de veinte y cinco años, cuyo persona, doy fé, conosco y dijo, que possi y en nombre de sus hijos, herederos, y sucesores, y de quien de ellos hubeira titulo, voy, y fama, en cual quien manera, vende y da en venta publica y enagenacion perpetua por juro de heredad, y para siempre jamas á Don Carlos Walter de esta vecindad á quien tambien doy fee y conozco, un rancho titulado "El Toro,"

que le pertenece en propiedad por concesion que de il le hijo el finado José Ramon Estrada, tambien de esta vecindad, segun costa del testamento y titulo original espresa, comprendiendore la casa y corrales que en dicho rancho se hallan, y declara el vendedor no haberlo vendido, enagenado, ni empeñado, y que está libre de todo gravamen, publico perpetuo y temporal, especial, tacito ó espresa, y como tal lo vende en el precio, y cuantro de das mil pesos a saber, un mil pesos en plata que recibio, y un mil pesos in efectos á los precios de plata, asi mismo declara que tiene por justo precio y verdadero valor de dicho rancho casa y corrales y no vale mas, y si mas valiera da el excesco la mucho ó poca suma hace á favor del comprador, de sus herederos y sucessores gracia y donacion justa, perpetua y irrevocable, que en derecho se llama *intervivus* con insinuacion y demas firmesas legales, renunciando las leges y demas que hablan en mas ó menos de la mitad del justo precio y los cuatro años, que prefina para su resarcion ó suplemento, los que dal por pasado, y desde hoy en adelante se desprende para siempre del dominio posecion, titulo, recurso, ó otra cualquiere derecho, que le competa al enunciado rancho, casa y corrales y lo renuncia y traspasa en el comprador, para que disponga de ellas como cosa propia, que por derecho le competa obligandore el otorgante a que esta venta será cinta segura y efectiva al comprador, y nadie le inquietara, ni movera pleito en su propiedad ó posecion, ni contra el rancho y su casa aparesera gravamen alguno, y si se le adquietara saldra a su defensa, hasta dejar al comprador en quieta y pacifica posecion.

Ya la observancia de lo referido obliga el otorgante sus bienes presentes y futuros, y con ellos se somete el fuero y jurisdiccion de los senores jueces que en sus causas puedan y deban conocer, conforme á derecho para que á su cumplimiento le compelan y apremian como por sentencia definitiva, consentida y pasada en autoridad de cora juzgada que por tal la respeta, renuncia las leyes que en el caso la favorezcan y lo general de derecho en forma.

En cuya testimonio lo otorgó y formó con migo y el comprador en esta pisgado, siendo los testigos los aqui firman.

JOSE A. MONTES su + senal. de osa. [SEAL.]

Testigo:
JUAN MALARIN,
GUILLERMO R. GARNER.

This instrument of writing was signed, sealed, and delivered in my office and in my presence, in Monterey, this fourth day of June, A. D. 1847.

WALTER COLTON,
Alcalde of Monterey.

Filed in office September 6th, 1852.

GEO. FISHER, *Sec'y.*

D.—*Conveyance from Montes to Walters, (in English.)*

Know all men by these presents, that I, José A. Montes, of the jurisdiction of Monterey, Upper California, for and in consideration of two thousand dollars, to me in hand paid by Charles Walter, of Monterey, said California, have this fourth day of June, in the year of our Lord one thousand eight hundred and forty-seven, and do by these presents, grant, bargain, sell, and convey unto said Charles Walter, all and singular the following piece, tract, or parcel of land known by the name of "*El Toro*," which was given to me, or bequeathed by the deceased José Ramon Estrada, of said Monterey, as may be more fully seen by a reference to the said will and testament of the aforesaid deceased José Ramon Estrada, as also by a reference to the original title-deed and other documents which I now deliver over to the said Charles Walter.

And I, the said José A. Montes, hereby further covenant and agree, to and with the said Charles Walter, to warrant and defend all and singular the said premises, together with all and singular the privileges and appurtenances thereunto in anywise belonging, unto the said Charles Walter, his heirs and assigns, against all legal claims and demands of all persons whomsoever.

In testimony whereof, I have hereunto set my hand and affixed my seal, this fourth day of June, in the year of our Lord one thousand eight hundred and forty-seven.

(Signed) JOSE A. MONTES, su + de oca. senal. [SEAL.]

Testigo: JUAN MALARIN,
WILLIAM R. GARNER.

This instrument of writing was signed, sealed, and delivered in my office, and in my presence, this fourth day of June, in the year of our Lord one thousand eight hundred and forty-seven.

(Signed) WALTER COLTON,
Alcalde of Monterey.

The above is an English translation of the Spanish transfer in the possession of Charles Walter.

(Signed) WILLIAM R. GARNER, *Sec'y.*

Filed in office September 6th, 1852.

(Signed) GEO. FISHER, *Sec'y.*

I, George Fisher, secretary to the board of commissioners to ascertain and settle the private land claims in the State of California, do hereby certify the foregoing 90 pages, numbered from 1 to 90, both inclusive, to contain a true, correct, and full transcript from the journal of proceedings of said board, of the original depositions of witnesses, and of the documentary evidence on file in this office, in case No. 191,

Charles Walters, claimant, against the United States, for the place called "El Toro."

In testimony whereof, I hereunto set my hand and affix my private seal, not having a seal of office, at San Francisco, California, this 22d day of January, A. D. 1854, and of the independence of the United States of America the seventy-seventh.

[L. S.]

GEORGE FISHER, *Sec'y.*

UNITED STATES DISTRICT COURT,
Southern District of California.

CLERK'S OFFICE, LOS ANGELES,
December 20th, A. D. 1855.

I, Charles E. Carr, clerk of the district court of the United States for the southern district of California, do hereby certify that the foregoing 91 pages, numbered from 1 to 91, both inclusive, contain a full, true, and correct copy of transcript No. 191, filed in this office, wherein Charles Walters is appellee and the United States are appellants, for "El Toro."

In testimony whereof, I have hereunto set my hand and affixed the seal of said court at Los Angeles, California, this 20th day of December, A. D. 1855, and of the independence of the United States of America the eightieth.

[L. S.]

C. E. CARR, *Cl'k.*

UNITED STATES DISTRICT COURT,
Southern district of California.

CLERK'S OFFICE, LOS ANGELES.

CHARLES WALTERS, appellee, vs. THE UNITED STATES, appellant. } Docket No. 112.—Transcript No. 191.

Be it remembered, that on the 8th day of November, A. D. 1854, in the district court of the United States for the southern district of California, the following proceedings were had, to wit:

A duly certified transcript of the proceedings and decision, and the papers and evidence upon which the said decision was founded, of the commissioners to ascertain and settle the private land claims in the State of California, when sitting as a board, in the case wherein Charles Walters is the claimant against the United States, for the place named "El Toro," was received and filed and docketed with No. 112, and is as follows, to wit:

(Vide page 1.)

LOS ANGELES, *Nov. 8th*, 1854.

In case No. 112, Charles Walters for "El Toro," a notice of appeal from the Attorney General was filed.

(Vide page 3.)

LOS ANGELES, *Jan'y 5th*, 1855.

In the same case, the petition of the United States for review was filed.

(Vide page 3.)

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

LOS ANGELES, *April 23d*, 1855.

For the same case, the motion to dismiss appeal was filed by appellee.

(Vide page 7.)

LOS ANGELES, *Oct. 3d*, 1855.

In the same case, the answer of Charles Walters was filed.

(Vide page 8.)

LOS ANGELES, *Oct. 3d*, 1855.

In the same case, the consent of the parties to submit case without argument was filed.

(Vide page 11.)

LOS ANGELES, *Oct. 4th*, 1855.

In the same case, the deposition of H. W. Halleck was taken and filed.

(Vide page 12.)

LOS ANGELES, *Oct. 5th*, 1855.

In the same case, the opinion of the court was delivered confirming the claim, and the following decree entered:

(Vide page 12.)

LOS ANGELES, *Oct. 18th*, 1855.

In the same case, on motion of P. Ord, U. S. attorney, the following order of appeal was made and filed:

(Vide page 15.)

ATTORNEY GENERAL'S OFFICE,
17th March, 1854.

CHARLES WALTERS, claimant,
vs.
THE UNITED STATES. } No. 191.

Order of Appeal.

You will please take notice, that an appeal in the above case, from the decision of the commissioners to ascertain and settle the private land claims in the State of California, to the district court of the United States for the southern district of California, will be prosecuted by the United States.

C. CUSHING,
Attorney General U. S.

Filed Nov. 8th, 1854.

C. E. CARR, *Cl'k.*

In the District Court of the United States for the southern district of California.

LOS ANGELES COUNTY.

CHARLES WALTERS ads. THE UNITED STATES. } No. 191.

Petition for Review.

To the honorable Isaak S. K. Ogier, judge of the district court of the United States, of the southern district of California.

The petition of Pacificus Ord, (of Monterey county,) attorney of the United States for the southern district of California, who petitions in this behalf for the United States, and being present here in court, in his proper person, in the name and behalf of the United States, represents as follows:

That, heretofore, to wit, on or about the 21st day of April, A. D. 1852, Charles Walters presented a petition to the commissioners to ascertain and settle the private land claims in the State of California, claiming the tract of land called "El Toro," in the county of Monterey, containing about one and a half square leagues, in the words and figures following, to wit:

"The petitioner, Charles Walters, respectfully shows: That, on the 17th day of April, A. D. 1835, José Castro, governor ad interim of California, by virtue of authority in him vested, granted to José Ramon Estrada the tract of land called El Toro, situate in the present county of Monterey, including one and a half square leagues, with the boundaries described in the grant and accompanying map; that said grant was approved by the Territorial Deputation of California, on the 3d day of December, A. D. 1835. That *on* the said tract of land was duly surveyed, on the 7th day of December, A. D. 1835, and the juridical possession of it given to the said Estrada; all of which is shown in the original papers, copies of which are submitted herewith, marked 'A,' with translations marked 'B.' That, on the 24th day of March, A. D. 1844, the said José Ramon Estrada died, devising by his last will and testament, dated the 21st day of March, A. D. 1844, the said tract of land to José A. Montez; all of which is shown by the original will, an extract from which is submitted herewith, with a translation marked 'C.' That, on the 4th day of June, A. D. 1847, the said José A. Montez sold and conveyed the said tract of land to the petitioner, a copy of which conveyance is submitted herewith, marked 'D.' And the petitioner further shows, that the said land has not been surveyed by the Surveyor General of the United States, but that its boundaries were duly marked out at the time of giving the juridical possession of it, and are well known. That the petitioner, and those under whom he holds, have been for about 20 years, and the petitioner now is, in the quiet, peaceful, and undisputed possession and occupation of the said tract of land. That he knows of no conflicting claim; that he

relies for confirmation of title upon the original papers, copies of which are submitted herewith; upon the minutes and records in the archives, now under the charge of the surveyor general, and upon such other and further proofs as he may be advised are necessary. Wherefore he prays the commissioners to confirm to him the aforesaid tract of land."

Your petitioner further represents, that thereafter, to wit: on the 22d day of December, A. D. 1852, the said commissioners confirmed by final decree the said claim of the said Charles Walters, in the words and figures following, to wit:

"No. 191.—Charles Walters, claimant. This board, on full consideration, having come to the conclusion that the claim is valid, now proceeds to make, and does hereby make, the following decree of final confirmation, viz: It is decreed that the said claim be confirmed to the extent and quantity of one square league and a half, being the same land described in the grant, and of which the possession was proved to to have been long enjoyed: Provided, that the said quantity of land granted, and now here confirmed to the claimant, be contained within the boundaries called for in the said grant and map to which the grant refers; and if there be less than the said quantity of one square league and a half within said boundaries, we then confirm to the claimant that less quantity, it being apparent that the quantity exceeds the minimum of two hundred varas, prescribed by the ordinance of the 21st of November, 1828.

"(Sg'd) HILAND HALL,
"(Sg'd) HARRY T. THORNTON,
"*Commissioners.*"

That thereafter, to wit, on the 8th day of November, A. D. 1854, a duly certified transcript of the said decree and proceedings, and the papers and evidence on which it was founded in said cause, was filed in the office of the clerk of the district court of the United States, for the southern district of California, and marked No. 191, reference to which it is prayed may be had and made a part of this petition.

That on the day of , A. D. , the honorable Caleb Cushing, Attorney General of the United States, received a duly certified duplicate of said transcript of said final decree and proceedings of said commissioners in said cause, (No. 191,) and the papers and evidence on which said decree was founded.

That thereafter, to wit, on the 9th day of November, A. D. 1854, the said Attorney General of the United States filed, or caused to be filed, on behalf of the United States, a notice with the said clerk of said district court for the southern district of California, that the appeal in said cause of Charles Walters vs. The United States, from the decision of the said commissioners to ascertain and settle the private land claims in the State of California, in the district court of the United States for the southern district of California, would be presented by the United States.

Your petitioner further represents, that the said land, claimed as aforesaid, is within the jurisdiction of this honorable court.

And your petitioner further represents, that the said decree of said commissioners is erroneous, and ought to be reviewed, reversed, and set aside for many errors and imperfections of law and evidence apparent in said certified transcript of said cause, now on appeal from said commissioners to this honorable court.

And your petitioner further represents, that the said claim is invalid, and the said decree erroneous, on the following grounds:

1. That the said Charles Walters shows no valid title to the said land claimed by him as aforesaid, and it is denied that he has any.

2. That the said alleged grant of Governor Castro was made in violation of the 4th article of the colonization law of Mexico, of the 18th of August, 1824, in this, that the land granted, as alleged by claimant, was and is within ten leagues of the seacoast; and there is no evidence by claimant, that the supreme general executive power of Mexico previously approved of the colonization of the lands of California, within ten leagues of the seacoast; and it is denied that such previous consent of said supreme general executive power of Mexico in such case was ever had.

3. That the said land, alleged to have been granted as aforesaid, was, at the time of the said alleged grant, in the possession and occupation of the government company of cavalry for pasture land; and the said land at the time of said grant belonged to the common lands of Monterey, and could not therefore be lawfully granted or colonized by said Governor Castro, as alleged.

4. That there is no sufficient evidence, that the said alleged original grantee built a house on the said land within one year from the date of said alleged grant, and that it was occupied by him, and that he cultivated the land. And it is denied that he built a house on the said land within one year from the date of the said alleged grant, and that it was occupied by him, and that he ever cultivated the said land.

5. That the said alleged grant does not sufficiently describe the land, so that it can be identified and located; and it is vague and uncertain.

6. That the said alleged grant has not the conditions required by, and is not made in entire conformity with, the law of Mexico of the 18th of August, A. D. 1824, and the regulations for the colonization of the territories of Mexico of the 21st of November, A. D. 1828.

7. That the said alleged juridical survey and possession of said land by David Spence, Alcalde, dated December 7th, A. D. 1835, was not made according to the description and calls of said grant and the map referred to therein, nor according to the ordinance or law, and that it is vague and indefinite.

8. That the alleged conveyance by José A. Montes, dated the 4th of June, A. D. 1847, to the said claimant, does not describe the land sufficiently to identify it as the same land alleged to have been granted to said Estrada, and by him alleged to have been given by last will and testament to said José Montes.

And no proof having been made by said claimant of the allegations

of his said petition, or in support of his said claim, filed as aforesaid, no decree ought to have been made or grounded thereon, but the said petition ought to have been dismissed, and said claim rejected by said commissioners upon the grounds aforesaid.

Wherefore, the said Pacificus Ord, Attorney of the United States for the southern district of California, for and in behalf of the United States, by reason of the premises and the laws and statutes in such case made and provided, prays that the said Charles Walter or his attorney may be served with a copy of this petition, and that this honorable court will review the said decision or final decree of confirmation of said commissioners to ascertain and settle the private land claims in the State of California, and decide on the validity of the said claim of said Charles Walters, for said land claimed and confirmed as aforesaid, and that the same may be decreed invalid; and all such other orders, judgments, or decrees as may be just, with costs and general relief.

P. ORD,
Attorney of the United States for the southern district of Cal.

Filed Jan'y 5th, 1855.

C. E. CARR, *Cl'k.*

Motion to dismiss Appeal.

CHARLES WALTERS, appellee,
vs.
THE UNITED STATES, appellants. } No. 191.

In the United States District Court for the southern district of California.

The said appellee, Charles Walters, moves the court to dismiss the appeal in this case, taken from the decision of the Board of United States Land Commissioners to ascertain and settle private land claims in the State of California, confirming the claim of the said Walters for the place in Monterey county, called "El Toro," the ground of which said motion is, because no notice of appeal was given on the part of the appellant within six months after the receipt of a certified copy of the transcript herein, by the United States Attorney General.

D. S. GREGORY,
Att'y for Appellee.

Filed April 23d, 1855.

C. E. CARR, *Cl'k.*

In the District Court of the United States for the southern district of the State of California.

THE UNITED STATES, appellant,
vs.
CHARLES WALTER, appellee. } No.

Answer.

Hon. Isaac S. K. Ogier, judge of the said court.

The above named Charles Walters, the appellee in this suit, and a resident of the county of Monterey and State aforesaid, by his attorney, D. S. Gregory, comes and answers to a petition for a review of this

case, filed by the United States district attorney for the said southern district, and for answer says:

That true it is, that he, the said Charles Walter, did, on the 20th day of April, A. D. 1852, present to the Board of United States Land Commissioners to ascertain and settle private land claims in the State of California, a petition claiming title to the tract of land situate in said county of Monterey, called rancho "El Toro," and containing about one and one-half square leagues, which said petition the said Walter says was in the words and figures set forth in the said petition for a review, filed by the United States through its said attorney, Pacificus Ord, esq., and filed in this honorable court on the fifth day of January, A. D. eighteen hundred and fifty-five; and which said petition of the said Walter prayed of the said Board of Commissioners a confirmation of his title to the said tract of land called "El Toro," which is more particularly described in the said petition and the documents therein referred to, and presented with his said petition, and marked "A," "B," "C," and "D,"—the title to which said tract of land he claimed to be derived, and now says was derived, on the 17th day of April, A. D. eighteen hundred and thirty-five, by grant bearing that date, from José Castro, then governor ad interim of California, under and by authority in him vested, and being made and delivered to one José Ramon Estrada, and by the said Estrada devised, he having died, to one José A. Montez, and alleged in said petition to have been conveyed by deed on the fourth day of June, A. D. 1847, to him the said Charles Walter; all of which will more fully appear by reference to the said petition for a review, and the transcript therein mentioned, and to the said documents. And the said Charles Walters further answers and says, that it is also true, that on the twenty-second day of December, A. D. 1852, the said Board of Commissioners confirmed by final decree the said claim of the said Walters to the said land, a copy of which said final decree the said appellee admits is contained in the said petition for a review; and he also admits that the Hon. Attorney General for the United States received a duly certified duplicate of the transcript in this case, on the day of , A. D. , and also, that a transcript of the said proceedings of the said Board of Commissioners was filed in the office of the clerk of the district court for the southern district of California, on the 8th day of November, A. D. 1854, as alleged in the said petition of review, and that the said Attorney General caused a notice of appeal to be filed in the said office, as therein alleged.

The said appellee further answering admits, that the said land so claimed, as aforesaid, is within the jurisdiction of this honorable court.

The said Walters further answers and expressly denies, that the said decree of the said board of land commissioners is erroneous, or that it ought to be reviewed, reversed, or set aside; and he explicitly says, that the same is not erroneous in law, and that it is not imperfect in evidence for matters apparent in the said transcript or otherwise.

And the said Charles Walters denies that the said claim is invalid,

and the decree erroneous on any of the grounds set forth in the said petition for a review; and he says, that he has shown a good and valid title to the land so claimed by him.

And he further answering denies, that said grant of the said Governor José Castro was made in violation of the 4th article of the colonization law of Mexico of the 18th day of August, A. D. 1824; he denies it is within ten leagues of the seacoast, but says that such grant would not be invalid on that account, even if it had not been proven that the general government of executive power of Mexico previously approved of the colonization of the lands of California within that distance of the seacoast.

And the said appellee, on further answer to the said petition, denies that the land so granted as alleged to the said original grantee was, at the time of such grant, in the possession and occupation of the government company of cavalry as pasture lands; and he denies that, at the time of such grant, the said lands so claimed belonged to the common lands of Monterey, but he says that even if they had so belonged they could have been granted by the said Governor Castro.

And the said Walters further says, that the evidence is sufficient that the said original grantee built a house on the said land within one year from the date of the said grant; and the proof is abundant and sufficient that the said land was occupied and cultivated by him within that time. And he expressly says, that the said grantee did build a house thereon, and did cultivate and occupy the same, and within the time aforesaid. But even without such buildiing, occupancy or cultivation, he denies that the said grant was or became invalid on that account.

He further answers and says, that the said grant does sufficiently describe the land granted; that it is easy of identification and location, and that the said grant is not vague and uncertain.

And the appellee herein further says, that the said grant has all the conditions required at the date thereof, by the law under which it was made, and that it was made in conformity with the law of Mexico of the 18th of August, A. D. 1824, and the regulations for the colonization of the Territories of Mexico, of the 21st of November, A. D. 1828.

And the said Charles Walters denies, that the juridical survey and possession of said made and given by David Spence, alcalde, dated 7th December, A. D. 1835, was not made according to the description and calls of the said grant, and the map referred to in said grant; but says that even if it had not been so given, the said grant is not, therefore, invalid. He denies the allegation that said survey was contrary to law, but says was in accordance therewith, and that the same is not vague nor uncertain, but is certain and definite.

And he further answers and says, that the said alleged conveyance from the said Montez to himself does fully identify and describe the said land as the same that was granted by the said Gov. Castro to the said Estrada, and by him devised to the said Montez, as shown by the said transcript.

Wherefore, on the grounds of said original grant, and by reason of

the said juridical survey, possession and occupation of the said premises, and by reason of the said last will and testament, and of the said deed, and of all the evidence already adduced in support of said claim as contained in the said transcript, and on which the said Walter relies, as well as for such other testimony and proofs, documentary and oral, as he may be able to produce, and to produce which he asks leave of this honorable court; he, the said Charles Walter, the above-named appellee, claiming that by law and equity, and according to the usages and customs of the country at the time of making the said grant, he is entitled to have a full and perfect confirmation of his said title to the said tract of land; and prays a final decree of this honorable court, decreeing him to be the owner in fee of all the land embraced within the boundaries of the land mentioned in said grant, and described therein; and as in duty bound he will ever pray, &c.

D. S. GREGORY,
Attorney for Appellee.

Filed Oct. 3d, 1855. C. E. CARR, *Clk.*

THE UNITED STATES, appellants,
vs.
CHARLES WALTER, appellee. } No. 112.

For the place called "El Toro," in Monterey county.

In the United States District Court for the southern district of California.

Agreement of Counsel.

We mutually consent that the above cause be submitted without argument.

D. S. GREGORY,
Att'y for Appellee.
P. ORD, *District Attorney.*

Filed Oct. 3d, 1855. C. E. CARR, *Clk.*

THE UNITED STATES, applts.,
vs.
CHARLES WALTERS, app'ee. } No. 112.—El Toro.

Deposition of H. W. Halleck.

H. W. Halleck, a witness on the part of appellant, being duly sworn, to questions propounded to him, answers as follows:

Ques. 1st. What is your name, age, and place of residence?

Ans. My name is H. W. Halleck; my age 39 years; residence San Francisco.

Ques. 2d. Do you know "El Toro" referred to in this case?

Ans. I know the rancho of "El Toro" referred to in this case, and I know that it is within ten leagues of the seacoast.

H. W. HALLECK.

Sworn to and subscribed before me, this 4th day of Oct., A. D. 1855.

C. E. CARR,
U. S. Commissioner.

Filed Oct. 4th, 1855. C. E. CARR, *Clk.*

THE UNITED STATES, appellants, vs. CHARLES WALTERS, appellee. } No. 112.—"El Toro."

Decree.

District Court of the United States for the southern district of California.

This cause coming on to be heard at a stated term of said court on an appeal from the final decision of the commissioners to ascertain and settle private land claims in the State of California, under an act of Congress approved March 5th, 1851, on the transcript of the proceedings and decision, and of the papers and evidence on which said decision was founded, and it appearing that said transcript has been duly filed according to law, and counsel for the respective parties having appeared, it is ordered, adjudged, and decreed, that said decision of said commissioners be affirmed; and it is ordered, adjudged, and decreed, that the claim of the said Charles Walters is a good and valid claim, and the same is hereby confirmed to the extent and quantity of one square league and a half, in and to the land the possession of which proved to have been long enjoyed by the appellee and those under whom he claims, the boundaries of which land are given in the grant and plot, copies of which are of file in this case: provided said quantity of one square league and one-half is contained within said boundaries; and if there be less than said quantity within said boundaries, then the claim of the said appellee to such less quantity is hereby confirmed and decreed to be valid.

M. HALL McALLISTER,
Judge Circuit Court U. S. for the districts of California.

Filed Oct. 5th, 1855.

C. E. CARR, *Clk.*

In the U. States District Court for the southern district of California—special term, Los Angeles, September, 1855.

CHARLES WALTERS, App'ee, ads. THE UNITED STATES, Appts. } No. 112.—Transcript No. 191.

Order of Appeal.

On motion of P. Ord, attorney of the United States for the southern district of California, it is ordered by the court, that an appeal be